



ATTACHEMENT C

FLORIDA DEPARTMENT OF JUVENILE JUSTICE

FACILITY SERVICES

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

Where the Construction Manager is the Constructor
for

MINOR PROJECTS (Statewide Continuing Area Contracts)

STATE CONTRACT NO.	ZC-TBD
STATE PROJECT NO.:	DJJ –To Be Determined (TBD)
STATE MV DESIGNATION:	TBD
CATEGORY CODE:	TBD
ORGANIZATION CODE:	TBD
EXPANSION OPTION CODE:	TBD
PROJECT NAME:	TBD
PROJECT LOCATION:	TBD
CONSTRUCTION MANAGER:	TBD Phone: TBD Facsimile: TBD Federal Tax I. D. No.: TBD
ARCHITECT-ENGINEER:	TBD

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Ron DeSantis | Governor

Matthew J. Walsh, MSW | Secretary

The mission of the Florida Department of Juvenile Justice is to enhance public safety through high-quality effective services for youth and families delivered by world-class professionals dedicated to building a stronger, safer Florida.

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TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER for MINOR PROJECTS

THIS AGREEMENT, BY AND BETWEEN THE STATE OF FLORIDA, DEPARTMENT OF JUVENILE JUSTICE, hereinafter called the OWNER, and

«CONTRNAME»
«STATECORP»
«CONTRSTREET»
«CITYSTATEZIP»
PHONE: «ContrPhone»,
FEDERAL TAX I.D. NUMBER: «FEIDNum»

hereinafter called the CONSTRUCTION MANAGER (CM),

For:

Individual minor construction services (hereinafter called the “Project”) periodically implemented in connection with this Statewide Continuing Area Contract for Minor Projects in the State of Florida, as so selected by the Owner. Each Activation issued pursuant to this Agreement shall have costs to Owner not to exceed \$7,725,000.

For the Owner’s Construction Budget of: **\$ To Be Determined (TBD) per each Project**

The Owner and CM agree to the following terms for each Project undertaken by the CM pursuant to this Agreement:

ARTICLE 1

PROJECT TEAM AND EXTENT OF AGREEMENT

The CM agrees to provide professional services for each Owner assigned project only upon written Activation of the Contract.

- 1.1 The CM covenants with the Owner to cooperate with the Architect-Engineer (AE) in furthering the interests of the Owner. The CM agrees to complete the Project in a manner consistent with the best interests of the Owner.
- 1.2 Project Team - The CM, the Owner, and the AE, called the “Project Team” shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required for each individual Project.
- 1.3 Extent of Agreement – This Agreement is complementary to the scope of Work, drawings, specifications and other descriptive documents defining the Project. This Agreement between the Owner and CM supersedes any prior negotiations, representations or agreements. Where this Agreement is expressly in conflict with the Conditions of the Contract, this Agreement will prevail. Where this Agreement is silent, the Conditions of the Contract, and the requirements of the Drawings and Specifications will prevail. This Agreement may be amended only by written instrument signed by the Owner and the CM.
- 1.4 Reference – Reference is also made to the following documents hereinafter referred to as the “Contract Documents”: Conditions of the Contract/Agreement, Instruction to Bidders, Request for Qualifications **TBD**-CM, Bid Form; DMS Construction Contract Project Manual; AIA Documents A201, A201/CMa, B141, B141/CMa, C141 and Modifications, Supplementary General and Special Conditions, Drawings, Technical Specifications, all addenda issued prior to execution of this Agreement and all modifications issued subsequent thereto. The term “Contractor” as used in the aforementioned documents shall mean Construction Manager.

1.5 Definitions

Activation – The written notice that serves as the acceptance of the CM's proposed GMP and Notice to Proceed for each individual Project issued in accordance with this Contract and is considered part of the Contract Documents.

Agreement – means Contract, and the terms will be used interchangeably.

Architect-Engineer (AE) – The Architect-Engineer identified herein or through separate Agreement with the Owner, and their key personnel assigned to the Project. The AE shall not change any of these key personnel without first obtaining the written consent of the Owner. The AE is an independent contractor and not an agent, representative or employee of the Owner. The AE may or may not be utilized on Minor Projects. It is the CM's responsibility to verify with the Owner the designated AE.

Authorization – The Authorization serves as a modification (i.e. additional services, changes orders) to the Activation for each individual Project issued in accordance with this contractual agreement and is considered part of the Contract Documents.

Close-Out Documents – Items required prior to submittal of the Final Pay Request. Such items are listed in *Exhibit M* and may be requested at the discretion of the Owner for each Project.

Construction Manager (CM) – The Construction Manager delineated on Page One of this Agreement and their key personnel assigned to the Project.

Cost of the Project - Shall mean CM's costs including General Conditions costs, incurred in the Project as described and defined herein, and paid or incurred by the CM less any reimbursement for scrap value and cash or trade discounts.

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

Estimated Cost of the Work/Project (ECOW) – Estimation of the cost of construction based on subcontractor price quotes before Construction Manager's Fee.

Final Completion – Shall mean that the Project is finally completed in accordance with the contract documents and that all deficiencies, patching, alternations and punch list items are complete. Completion and delivery to the Owner of the Close-Out Documents is required for the project to meet Final Completion.

Guaranteed Maximum Price (GMP) – The GMP guarantees the maximum price to the Owner, for the construction costs of the Project or designated part thereof. The GMP shall be inclusive of the cost for subcontracts, supply contracts, direct labor costs, direct supervision costs and direct job cost overhead and profit as defined in this agreement. The GMP includes Cost of the Project required by the Contract Documents for each Project, the CM's fee, contingency, taxes which are legally enacted at the time the GMP is established, trade category costs, allowances and other costs which are properly reimbursable as costs of the Project.

Minority Business Enterprise (MBE) – The Construction Manager is encouraged to subcontract with minority business certified by the Office of Supplier Diversity (OSD) whenever possible in the best interests of the Project.

Owner – The State of Florida, Department of Juvenile Justice.

Owner's Construction Budget – The funds budgeted and requested for Construction of the Project, including, but not limited to, all Construction Management Fees and Costs of the Project/Work. The Owner's Construction Budget is dependent upon Legislative appropriation. It is exclusive of AE professional services. This acknowledgement of the Owner's budget is not to be considered as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price shall be offered by separate documentation as outlined herein.

Permitting Authority – The authorities with jurisdiction over inspecting and permitting in the area in which the project is located and/or responsibility for the scope of the project or specific portion of the work within the project.

Permitting Authority (SFM) – The State of Florida, State Fire Marshal, Bureau of Fire Prevention, Plans Review Section, 325 John Knox Rd. #312 Tallahassee, Florida 32303 (850) 413-3170. The Plans Review Section reviews 100% construction documents and is responsible for code inspections on projects administered by the Owner.

Project or the Work – These terms may be used interchangeably. The Project is the total Work specified to be performed under this Agreement and each Activation for the Owner. The Project consists of planning, design, code compliance reviews, permitting, construction and code inspections necessary to build the component parts of the Project.

Project Manager (PM) – The person designated by the Owner to provide direct interface with the Project Team with respect to the Owner's responsibilities. The PM shall define the lines of Owner authority to approve Project Construction Budgets, and changes in Project. The PM shall perform his/her duties promptly and furnish information expeditiously. The PM shall not have the authority to bind the Owner in any contract or amendment unless authorized in writing by the Secretary or other designee authorized to sign authority on behalf of the Owner.

Project Team – The Owner's assigned staff and Project Manager, assigned Detention Services staff, assigned Residential Services staff, assigned Probation & Community Intervention staff, the Construction Manager, and the Architect-Engineer. The Owner's Project Manager shall oversee the project. All correspondence shall be through the Owner's assigned Project Manager.

Subcontractor - means trade contractor, Supplier, Subconsultant, and the terms will be used interchangeably. A subcontractor is a person or organization who has a direct contract with the CM, or AE when applicable, to perform any of the Work. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner and any trade contractor, Subcontractor, Supplier and Subconsultant.

Substantial Completion (SC) – In order to meet the Substantial Completion, the Project under the Agreement must be sufficiently complete in accordance with the Contract Documents. The Owner must be able to occupy or utilize the Project or designated portions thereof for the use for which it is intended as expressed in the Contract Documents. The Project may be at Substantial Completion before finishing minor alterations and patching, as the Final Inspection shall disclose.

Wages - Include the straight time and overtime pay and the cost of associated employee benefits. Employee benefits include, but are not limited to, unemployment compensation, social security, compensated absences, and other mandatory and customary contributions and fringe benefits insofar as such costs are based on wages, salaries, or other remuneration paid to employees.

ARTICLE 2

CONSTRUCTION MANAGER'S SERVICES

- 2.1 The CM's Services under this Agreement include the construction services for a project with a GMP under \$7,725,000. The services described or specified shall not constitute a comprehensive specification having the effect of excluding services not specifically mentioned. The CM will submit a cost proposal for each Project indicating Work requested to be self-performed and to be competitively bid. Should the Owner and CM not reach a contract agreement on any Project, the Owner reserves the right to cease negotiations for that Project and perform the Project by other means without affecting or utilizing this Agreement.
- 2.2 Each Project will be executed by separate Activation from the Owner for that Project. The CM shall commence the Project within 10 days after receipt of the executed Activation for each Project and Notice to Proceed from the Owner. The Project shall not begin before the date established in the Activation. In accordance with F.S. 287.058 (2) the CM shall not be eligible for reimbursement for services rendered prior to the execution date of this Agreement or prior to the receipt of an executed Activation. Within 10 days of approval of the GMP, the CM shall submit proof of Builder's Risk and a Performance and Payment Bond (for Projects over \$100,000).
- 2.3 Design Phase Review, Recommendations and Warranty - The CM shall become thoroughly familiar with the evolving architectural, civil, mechanical, plumbing, electrical and structural plans and specifications and shall follow the development of design from Preliminaries through working drawings. The CM shall make recommendations with respect to the selection of systems and material, and cost reducing alternatives including assistance to the AE and the

Owner in evaluating alternative comparisons versus long term effect. The evaluation shall speak to the benefits of the speed of erection and early completion of the Project. The CM shall furnish pertinent information as to the availability of materials and labor that will be required. The CM shall submit to the Owner, Permitting Authority and AE such comments as may be appropriate concerning construction feasibility and practicality. The recommendations and advice of the CM concerning design alternatives shall be subject to the review and approval of the Owner and AE. It is not the CM's responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if the CM recognizes that portions of the Drawings and Specifications are at variance therewith, the CM shall promptly notify the AE and Owner in writing of any apparent defects in the design, drawings and specifications or other documents. The CM shall prepare an estimate of the construction costs.

At the completion of the CM's review of the plans and specifications, except only as to specific matters as may be identified by appropriate comments pursuant to this selection, the CM shall warrant, without assuming any Architectural or Engineering responsibility, that the plans and specifications are consistent, practical, feasible and constructible. The CM shall warrant that the Work described in the plans and specifications for the various bidding packages is constructible within the scheduled construction time.

DISCLAIMER OF WARRANTY: The Owner disclaims any warranty that the plans and specifications for the Project are accurate, practical, consistent or constructible.

- 2.4 Preliminary Project Schedule - When Project requirements have been sufficiently identified, the CM shall prepare, and periodically update, a preliminary Project schedule for the Owner's review and approval. The CM shall coordinate and integrate the preliminary Project schedule with the services and activities of the Owner, AE and CM. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and duration's, milestone dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurement, Owner's occupancy requirements showing portions of the Project having occupancy priority, and proposed date of Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the CM shall make appropriate recommendations to the Owner and AE.
- 2.5 Preliminary Cost Estimates - When Owner has sufficiently identified the Project requirements and the AE has prepared other basic design criteria, the CM shall prepare, for the review of the AE and approval of the Owner, a preliminary cost estimate utilizing area, volume or similar conceptual estimating techniques. As design progresses, the CM shall update and refine this estimate at appropriate intervals agreed to by the Owner, AE and CM. If any estimate submitted to the Owner exceeds previously approved estimates or the Owner's budget, the CM shall make appropriate recommendations to the Owner and AE.
- 2.6 Construction Phase - Unless otherwise authorized by the Owner, all permanent construction for the Project shall be performed under trade contracts held by the CM or with the CM's own staff. The CM services shall include those as specified in Article 5. The CM shall:
 - 2.6.1 Administer the construction as provided herein and in the Contract Documents. Unless otherwise provided for in the Activation, Supplementary General Conditions for Construction, the document forms, Special Conditions and Non-Technical Specifications contained in the Project Manual for each individual Project.
 - 2.6.2 Manage, schedule and coordinate the Project, including the Work of the trade contractors, and coordinate the Work with the activities and responsibilities of the Owner, AE and CM in order to complete the Project in accordance with the Owner's objectives of cost, time and quality. Develop and maintain a program, acceptable to the Owner and AE, to assure quality control of the construction. Supervise the Work of all subcontractors providing instructions to each when its Work does not conform to the requirements of the plans and specifications and continue to manage 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 CM and the AE over acceptability of Work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.
 - 2.6.3 Maintain exclusively for the project the level of staff as agreed upon in the approved GMP proposal at the Project site to coordinate and direct the Work and progress of the trade contractors on the Project. All of the CM's on-site management and supervisory personnel shall be consistent in skill and experience as the personnel interviewed by the Owner and shall not be removed or replaced without prior written notice to the Owner. The Owner shall have the right to direct the CM to remove or replace any on-site personnel whose performance becomes unsatisfactory to the

owner. In such event, the CM shall promptly replace such personnel, without consideration of additional compensation for the replacement.

- 2.6.4 Establish on-site organization and lines of authority in order to carry out the overall plans of the Project Team. Identify an on-site staff member to represent the CM, on a daily basis, with authority to negotiate change orders and contract modifications on behalf of the CM. Make available such executive personnel as necessary to execute change orders or other contract modifications on behalf of the CM so as not to delay the progress of the Project.
- 2.6.5 Establish procedures for coordination among the Owner, AE, trade contractors and CM with respect to all aspects of the Project and implement such procedures. If requested by the agency, incorporate these procedures into a project resource manual and distribute manuals to the Project Team.
- 2.6.6 In coordination with the AE, establish and implement procedures for tracking and expediting the processing of shop drawings and samples, as required by the Contract Documents.
- 2.6.7 Review the schedule with the various trade contractors and review, or expand, the level of detail to incorporate specific trade contractor input consistent with the overall completion requirements. Regularly monitor and update the Project Schedule and various sub-networks as construction progresses. Identify potential variances between scheduled and probable completion dates. Review schedule for Work not started, or incomplete, and make adjustments in the schedule to meet the scheduled completion date. Provide summary reports of each monitoring and document all changes in schedule. Regular schedule updates and reporting shall be included as part of the monthly project report as outlined herein.
- 2.6.8 Record the progress of the Project. Submit monthly progress reports (written if requested) to the Owner and the AE including information on the trade contractors' work, the percentage of completion, current estimating, computerized updated monthly Critical Path Method scheduling and project accounting reports, including Estimated Time to Completion and Estimated Cost to Complete. Keep a daily log available to the Owner and the AE. Report and record such additional information related to construction as may be requested by the Owner.
- 2.6.9 Whenever Owner-Furnished Contractor-Installed (OFICI) materials or equipment are shipped to the Project site, the CM shall notify the Owner and CM shall be responsible for their acceptance, proper storage and protection from the elements, security and incorporation into the Project provided the scope of the OFICI Work is included within the GMP.
- 2.6.10 Without assuming any of the AE's responsibilities for design, recommend necessary or desirable changes to the Owner and the AE, review requests for changes and submit recommendations to the Owner and AE.
- 2.6.11 Be responsible for initiating, maintaining and supervising effective safety programs and require similar programs of the trade contractors. The OSHA guidelines shall serve as the basis for the construction safety program.
- 2.6.12 Promptly notify the Owner, in writing, upon receiving notice of filing of any change of non-compliance from OSHA, or upon receiving notification that a federal or state inspector shall visit or is visiting the Project site.
- 2.6.13 Make provisions for Project security acceptable to the Owner, to protect the Project site and materials stored off-site against theft, vandalism, fire and accidents, etc., as required by job and location conditions. Mobile equipment and operable equipment at the site, and hazardous parts of new construction subject to mischief, shall be locked or otherwise made inoperable or protected when unattended.
- 2.6.14 Be responsible for the removal, encapsulation, transportation and disposal of any hazardous material or solid waste, including, without limitation, any asbestos or asbestos-related products as may be required in connection with the Project. Hazardous materials as described by federal guidelines, brought to the site by the CM or the trade contractors, shall remain their responsibility for proper disposal. Any hazardous material not specifically shown on the documents shall be considered a concealed condition and may be the responsibility of the CM in a Change Order increasing the GMP for any additional costs incurred.
- 2.6.15 Recommend to the Owner a schedule for procurement of long-lead time items that will constitute part of the Project as required to meet the Project schedule. If the Owner procures such long-lead time items, they shall be procured on terms and conditions acceptable to the CM. The CM shall expedite the delivery of long-lead time items.

- 2.6.16 Procure an incidental services consultant such as, but not limited to, an Architect, Engineer, Environmental Consultant, Kitchen Consultant, Interior Designer, Programmer and/or Surveyor, in order to expedite professional services that may be required to successfully and expediently remedy an occurrence that may arise from unforeseen field conditions during the course of this agreement. The use of such incidental services consultant shall be determined jointly by the Owner and CM in order to best evaluate the circumstance. Upon Owner's approval to proceed with the use of an incidental services consultant, the CM shall prepare the scope of Work, solicit proposals, verify consultant's liability coverage's and submit a change order request for the Owners review and approval in accordance with Article 10.
- 2.6.17 The CM shall retain a Threshold Inspector, if required by Chapter 553, Florida Statutes.

ARTICLE 3

OWNER'S RESPONSIBILITIES

- 3.1 The Owner shall designate a representative to act in its behalf. This representative, or designee will monitor the progress of the Project, serve as liaison with the CM and the AE, examine documents submitted by the AE and render decisions pertaining thereto promptly to avoid unreasonable delays in the progress of the AE's Work and shall observe the procedure of issuing instructions to the CM.
- 3.2 Upon written request from the CM, the Owner shall furnish a budget narrative describing which funds will be available and committed for the cost of each Project. The CM shall not commence any Project unless authorized in writing by the Owner.
- 3.3 Upon acceptance of the GMP, which also includes the CM's Fee and the Cost of the Project. Invoices will be paid monthly or as services are rendered by the CM and approved by the Owner. Invoices may also be paid as described in the Contract Documents or as specified by the Owner prior to the start of the project.
- 3.4 The Owner shall retain an AE to design and prepare construction documents for the Project. The AE services, duties and responsibilities shall be as described in the Agreement Between Owner and AE. The Terms and Conditions of the Agreement between the Owner and the AE, a copy of which shall be furnished to the CM upon written request, shall not be modified without notification to the CM.
- 3.5 The Owner and AE shall communicate with the subcontractors or suppliers only through the CM while such method of communication is effective in maintaining project schedules and quality.
- 3.6 The Owner shall establish and maintain lines of authority for its personnel and shall provide this definition to the CM and all other affected parties.
- 3.7 If the Owner observes or otherwise becomes aware of any defect in the Project, it shall give prompt written notice thereof to the AE and the CM.

ARTICLE 4

PERMITTING AND INSPECTIONS

- 4.1 Before Construction begins, the CM shall obtain all necessary permits unless otherwise directed by the Owner. Construction will be inspected for code compliance, compliance with drawings and specifications, and quality by inspectors working for the Permitting Authority(s). If directed by the owner the CM will take all necessary measures to insure new construction and renovation projects are constructed to comply with the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized high-performance green building rating system as approved by the Department of Management Services.
- 4.2 Permitting Authority may be required for each individual Project, it is the CM's responsibility to coordinate with the Owner on the scope of the Project to determine if permitting is required. When the CM is uncertain about permitting requirements, the CM shall contact the Permitting Authority(s) for written direction.

- 4.3 If such Permit is issued, the Projects will require detailed code compliance inspections during construction in disciplines determined by the Permitting Authority. These disciplines normally include, but are not limited to environmental, structural, mechanical, electrical, plumbing, A.D.A. and fire protection and life safety.
- 4.4 The CM shall notify the appropriate Permitting Authority(s), no less than 24 hours in advance, that the Work is ready for inspection and before the Work is covered up. Work not inspected and approved prior to cover-up shall be uncovered for inspection when directed by the Permitting Authority. All costs for uncovering and reconstruction shall be borne by the CM.
- 4.5 All inspections shall be made for conformance with the applicable building codes, compliance with drawings and specifications, and quality.
- 4.6 Cost for all reinspections of Work found defective and subsequently repaired shall be borne by the CM.

ARTICLE 5

BIDDING THE WORK AND SUBCONTRACTS

- 5.1 The CM must competitively bid all subcontracts unless otherwise instructed by the Owner in writing. The CM shall develop trade contractor interest in all proposed Projects and solicit competitive bids on the Work of the various trade contractors. The CM shall also conduct pre-bid conferences with interested bidders to review the documents or outlined scope of work. The CM will negotiate with the successful bidder for the performance of that Work and enter into a lump sum (fixed price) contract in the best interests of the Owner. The CM will also be responsible for ensuring that successful subcontracts were not awarded based on collusion.
- 5.2 The CM may require bidders to submit bid bonds or other bid security acceptable to the CM as a prerequisite to bidding on the Work. Analyze and evaluate the results of the various bids and their relationship to the budgeted and estimated amounts, prepare for review with the Owner and AE a bid tabulation analysis and such other support data as necessary to properly compare the various bids and their responsiveness to the designed scope of Work. Specifically, review the scope of Work in detail with the apparent low and best bidders and attempt to achieve additional savings through negotiation whenever practical. Maintain records of all pre-award interviews with apparent low bidders. Prepare and submit written recommendations to the Owner and AE for award of trade contracts by the CM identifying the MBE to be utilized. Promptly award and execute trade contracts with approved trade contractors. Provide copies of fully executed trade contracts, insurance certificates and, if required, bonds to the Owner.
- 5.3 The CM shall make available to each proposed trade contractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the trade contractor will be bound and identify to the trade contractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each trade contractor shall similarly make copies of such Documents available to its subcontractors.
- 5.4 The CM shall furnish upon request to the Owner for their information a list of possible trade contractors, Subcontractors, including Suppliers who are to furnish materials and/or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The receipt of such list shall not require the Owner to investigate the qualifications of proposed trade contractor, Subcontractors or Suppliers, nor shall it waive the right of the Owner later to object to or reject any proposed trade contractor, Subcontractor or Supplier.
- 5.5 By an appropriate written agreement, the CM shall require each trade contractor to the extent of the Work to be performed by the trade contractor, to be bound to the CM by the terms of the Contract Documents, and to assume toward the CM all the obligations and responsibilities which the CM by these Documents, assumes toward the Owner and the AE. Said Agreements shall preserve and protect the rights of the Owner and AE under the Contract Documents with respect to the Work to be performed by the trade contractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the CM shall require each trade contractor to enter into similar agreements with its subcontractor.
- 5.6 The CM shall require of the various trade contractors such coordination drawings as may be necessary to properly coordinate the Project among the trade contractors.

- 5.7 The CM shall schedule and conduct weekly progress meetings with trade contractors to review such matters as job procedures, construction progress, schedule, shop drawing status and other information as necessary. The CM shall provide prior written notice to Owner and AE of all such meetings and prepare and distribute minutes as requested. The CM shall attend monthly team meetings as scheduled by the AE.
- 5.8 The CM shall determine the adequacy of the trade contractors' personnel and equipment, and the availability of materials and supplies to meet the schedule. In consultation with the Owner and the AE, the CM shall take necessary corrective actions when requirements of a trade contract or a trade contract Schedule are not being met.
- 5.9 The CM shall, at progress meetings with trade contractors, conduct a review of job safety and accident prevention, and prepare minutes of such meetings that will be available to the Owner's Representative on request.
- 5.10 On all trade contracts where the bid exceeds \$50,000, the trade contractor shall provide a 100% performance bond and a 100% labor and material payment bond from a surety company authorized to do business in the State of Florida by the Department of Insurance.
- 5.11 Trade contractors must have successfully completed no less than two projects of similar size and complexity within the last five years.
- 5.12 Any claims by trade contractors for delay or additional cost must be submitted to CM within the time and in the manner in which the CM 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.
- 5.13 The CM shall be responsible to the Owner for the acts and omissions of its employees and agents and its trade contractors, Subcontractors, Suppliers, their agents and employees, and all other persons performing any of the Work or supplying materials under a contract to the CM.

ARTICLE 6

SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 6.1 The CM shall perform services as required by this Contract.
- 6.2 The CM shall commence the Project within ten (10) days after receipt of the executed Activation for each Project and Notice to Proceed from the Owner.
- 6.3 The Project shall not begin before the date established in the Activation. In accordance with F.S. 287.058(2), the CM shall not be eligible for reimbursement for services rendered prior to the execution date of this Agreement or prior to the receipt of an executed Activation.
- 6.4 The number of days for performance of the Project shall be established in the Activation issued for each Project.
- 6.5 In the event the Owner desires to accelerate the schedule for any portion of the Project, the Owner shall notify the CM in writing. Within seven (7) days, the CM shall give the Owner a revised GMP for the acceleration that shall become a change order upon acceptance. The Owner may then direct the CM to increase its staff and require its trade contractors to increase their manpower, or to work such overtime hours as may be necessary to accomplish the required acceleration in accordance with the approved change order. In such event the Owner shall reimburse the CM for the costs of such acceleration subject to the GMP. In no event shall the CM be entitled to compensation in excess of the adjusted GMP. The CM shall require accurate daily records of all costs of the required acceleration and shall secure the Owner's approval of such records.
- 6.6 The Owner shall have the right to occupy, or use, any portion of the Project ahead of schedule. If use or occupancy ahead of schedule affects the Cost of the Project or the schedule for the Project, the use or occupancy will be treated as a Change to the Project in accordance herein.
- 6.7 The CM agrees to be at Substantial Completion within a period of time (calendar days) to be negotiated prior to submittal of the GMP after the date of the Activation and/or Notice to Proceed and shall be finally completed within 30 calendar

days after the date of substantial completion. The CM acknowledges that failure to be at Substantial Completion within the construction time set forth in the approved schedule will result in substantial damages to the Owner.

Inasmuch, a failure to complete the project within the time fixed above will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, it is hereby agreed that if the Project is not at Substantial Completion, according to the definition hereinabove, or within such further time, if any, as in accordance with the provisions of the Contract Documents shall be allowed for such Substantial Completion, the CM shall pay to Owner as liquidated damages for such delay, and not as a penalty, an amount to be decided for each project and shall be set forth in each Activation, per day for each and every calendar day, thereafter, elapsing between the date fixed for substantial completion above and the date such substantial completion shall have been fully accomplished. It is also hereby agreed that if the Project is not at Final Completion, in accordance with the requirements of the Contract Documents, the CM shall pay to the Owner as liquidated damages for such delay, and not as a penalty, one-fourth of the liquidated damages rate indicated above. Said liquidated damages shall be payable in addition to any excess expenses or costs payable by the CM to the Owner under the provisions herein and shall not exclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for CM's delay. This provision of liquidated damages for delay shall in no manner affect the Owner's right to terminate the contract as provided herein or elsewhere in the Contract Documents. The Owner's exercise of the right to terminate shall not release the CM from his obligation to pay said liquidated damages in the amounts set out above.

The amount of the final payment to the CM shall be reduced by the amount of liquidated damages assessed under this contract.

It is further agreed that the Owner shall deduct from the balance retained by the Owner, under the provisions above, the liquidated damages stipulated therein for delay or termination or such portions thereof as the said retained balance will cover.

ARTICLE 7

GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

- 7.1 The GMP will be established based on Construction Documents or written instructions provided from the Owner. The GMP is subject to modification for changes in the Project as provided herein.
- 7.2 The CM shall include with the GMP proposal a written statement of its basis, which shall include:
 1. A list of the Drawings and Specifications, including all addenda thereto and the Conditions of the Contract, which were used in preparation of the GMP proposal.
 2. A list of allowances and a statement of their basis.
 3. A list of the clarifications and assumptions made by the CM in preparation of the GMP proposal to supplement the information contained in Drawings and Specifications.
 4. The proposed GMP, including a statement of the estimated cost organized by the trade categories, allowances, contingency, and other items and the fee that comprise the GMP.
 5. The Date of Substantial Completion upon which the proposed GMP is based, and a schedule of the Construction Documents issuance dates upon which the date of Substantial Completion is based.
- 7.3 The CM shall meet with the Owner and AE to review the GMP proposal and the written statement of its basis. In the event that the Owner and AE discovers inconsistencies or inaccuracies on the information presented they shall promptly notify the CM, who shall make appropriate adjustments to the GMP proposal, its basis or both.
- 7.4 Unless the Owner accepts the GMP proposal in writing on or before the date specified in the proposal for such acceptance and so notifies the CM, the GMP proposal shall not be effective.

- 7.5 Prior to the Owner's acceptance of the CM's GMP proposal and issuance of a Notice to Proceed, the CM shall not incur any cost to be reimbursed as part of the Cost of the Project, except as the Owner may specifically authorize in writing.
- 7.6 All cost savings for the not-to-exceed value of the GMP shall be returned to the Owner as part of the net aggregate savings established when final accounting is submitted upon Final Completion of the Project. "Cost savings" are the net difference obtained by deducting from the Adjusted GMP, the CM's Fee, the expended portions of the CM's Contingency and the actual expenditures representing the Cost of the Work as defined herein. Liquidated damages, if any, are different from, and are not a part of, this calculation.
- 7.7 By execution of this Agreement, the CM certifies that all factual unit costs supporting the fees specified in this Agreement are accurate, complete and current at the time of negotiations and that any other factual unit costs that may be furnished the Owner in the future to support any additional fees that may be authorized will also be accurate and complete. The fees specified in this Agreement and any additional fees that may be authorized in the future shall be adjusted to exclude any significant sums that the Owner determines the fee was increased due to inaccurate, incomplete, or non-current factual unit costs.
- 7.8 Adjustments to the GMP will be made as described in the Contract Documents.

ARTICLE 8

CONSTRUCTION MANAGER'S EXPENSES

- 8.1 In consideration of the performance of the Agreement, the Owner agrees to pay the CM, the following expenses as set forth below:
- 8.1.1 The cost attributable to this Contract (per individual Contract Activation) of its home or branch office employees or consultants not at the Project site, except as otherwise specified hereinafter, including the cost of all pension contributions, hospitalizations, bonus, vacations, medical insurance assessments or taxes for such items as unemployment compensation and social security, payroll insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees. Where value or complexity of any Project does not warrant the on-site presence of a Project Manager, Project Engineer, or Project Secretary, cost for said employees may not be included in the GMP except when approved by the Project Team.
- 8.1.2 The portions of the general operating expenses of the CM's principal and branch offices which pertain to the project other than those of the field office.
- 8.1.3 Any part of the CM's capital expenses, including interest on the CM's capital employed for the Project.
- 8.1.4 All travel and per diem costs of CM's employees and consultant. All travel costs will be paid in accordance with Section 112.061, F.S. in order to qualify.
- 8.1.5 Minor expenses such as express delivery, long distance telephone calls, postage, office supplies, expressage, and similar items in connection with the Project, from the CM's main office.

ARTICLE 9

COST OF THE PROJECT AND CONSTRUCTION MANAGER'S FEE

- 9.1 The CM shall develop and maintain an effective system of Project Cost Control that is satisfactory to the Owner. Revise and refine the initially approved Project Construction Budget, incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise Owner and AE whenever projected costs exceed budgets or estimates. Cost Control reports shall be included as part of the monthly project report as outlined herein.

- 9.1.1 When requested by the Owner or AE, the CM shall promptly prepare and submit estimates of probable cost for changes proposed in the Work including similar estimates from the trade contractors. If directed by the Owner, promptly secure formal written Change Order Proposals from such trade contractors.
- 9.2 The Owner agrees to pay the CM for the Cost of the Project as defined herein. Cost of the Project (Estimated Cost of the work) includes and is limited to direct actual expenditure for the following project-related items only:
- 9.2.1 The cost of all materials, supplies and equipment incorporated in the Project or stored on site, including cost of transportation and storage thereof shall be included in the Cost of the Project. At the Owner's sole discretion, the Owner may make payment for materials, supplies and/or equipment stored off-site.
- 9.2.2 Payments made by the CM to trade contractors for their Work performed pursuant to trade contractor with the CM.
- 9.2.3 Subject to prior approval by the Owner, wages paid for labor in the direct employ of the CM other than those provided herein as a part of the CM's Fee, in the performance of the Project under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the Owner and CM, and including such welfare or other benefits, if any, as may be payable with respect thereto.
- 9.2.4 Cost of the premiums for all insurance or bonds including trade contractor bonds which the CM is required to procure by the Agreement, or other insurance or bonds subsequently deemed necessary by the CM and agreed upon by the Owner.
- 9.2.5 Sales, use, gross receipt, or similar taxes related to the Project imposed by any governmental authority and for which the CM is liable.
- 9.2.6 Permit fees, inspection and filing fees, sewer and water fees, and deposits lost for causes other than the CM's own negligence. If royalties or losses and damages, including cost of defense, are incurred which arise from a particular design, process, or the product of a particular manufacturer or manufacturers specified by the Owner or AE, and the CM had no reason to believe there would be infringement of patent rights, such royalties, losses and damages shall be paid by the Owner and the GMP shall be adjusted by Change Order to compensate the CM for the increased costs. If the CM has actual knowledge that use of the particular design, process, or product would infringe a patent(s) and fails to provide written notice to the Owner before using such design, process, or product, then no royalties, losses or damages arising from use of such design, process or product shall be a Cost of the Project.
- 9.2.7 Cost of removal and disposal of all debris including clean-up and trash removal.
- 9.2.8 Legal costs and fees reasonably, and properly, resulting from prosecution of the Project for the Owner provided, however, that they are not the result of the CM's or its subcontractors negligence or malfeasance. Legal costs and fees incurred in connection with disputes between the CM and the Owner or incurred in connection with disputes between or involving the CM and trade contractors are the responsibility of the CM and shall not be included in the Cost of the Project.
- 9.2.9 Cost to the CM of temporary electric power, lighting, telephone, water, air conditioning/heating, and sanitary provisions required for the performance of the Project or required to protect the Project/Work from weather damage.
- 9.2.10 Cost to the CM of temporary safety-related protection including barricades and safety equipment, temporary roads and parking, dust control, pest control, installation and operation of temporary hoists, scaffolds, ladders and runways, and temporary project signs and costs of permits and fees pursuant to the Contract Documents.
- 9.2.11 Cost of watchmen or similar security services, if required and approved by the Owner.
- 9.2.12 Cost of surveys, measurements and layout Work reasonably required for the execution of the Project or the requirements of the Agreements.
- 9.2.13 Cost of preparation of shop drawings, coordination plans, photographs, or as-built documents not included in trade contracts.
- 9.2.14 Cost of data processing services required in the performance of the construction phase services as outlined herein.

- 9.2.15 All costs for reproduction of documents associated with the project.
- 9.2.16 All costs directly incurred in the performance of the Project and not included in the CM's Fee set forth herein.
- 9.2.17 Cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen that are employed or consumed in the performance of the Project.
- 9.2.18 Rental charges of all necessary machinery and equipment, including hand tools used in the performance of the Project, whether rented from the CM or others, including installation, repairs, and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof.
- 9.2.19 Costs associated with setting up and demobilizing tool sheds, Project field offices, temporary utilities, temporary fences, temporary roads, temporary fire protection, and temporary sanitary provisions.
- 9.2.20 The cost of its field employees identified herein, or their approved replacements, including the cost of all pension, contributions, hospitalization, bonuses, vacations, medical insurance, assessments or taxes for such items as unemployment compensation and social security, payroll insurance, and taxes attributable to wages and salaries for said field employees.
- 9.2.21 Cost of equipment such as cameras (film and digital), radios, telephone service at the site, computers, copiers, facsimile equipment, dictating units, trailers, vehicles and furniture purchased or rented by the CM when approved by the Owner and necessary for the proper execution of the job.
- 9.2.22 Cost of Project Manager, Project Engineer and Secretary involved directly in the Project at the Project site.
- 9.2.23 Items listed in Article 8 are not permitted to be included in the ECOW.
- 9.2.24 The maximum Construction Manager's Fee (CMF) allowable for the project shall be determined using the following fee schedule:

Estimate Cost of Work			% CM Fee	Estimate Cost of Work			% CM Fee
\$0.00	to	\$99,999.99	17%	\$700,000.00	to	\$899,999.99	10%
\$100,000.00	to	\$199,999.99	16%	\$900,000.00	to	\$999,999.99	9%
\$200,000.00	to	\$299,999.99	15%	\$1,000,000.00	to	\$1,999,999.99	8%
\$300,000.00	to	\$399,999.99	14%	\$2,000,000.00	to	\$2,999,999.99	7%
\$400,000.00	to	\$499,999.99	13%	\$3,000,000.00	to	\$3,999,999.99	6%
\$500,000.00	to	\$599,999.99	12%	\$4,000,000.00	to	\$5,999,999.99	5%
\$600,000.00	to	\$699,999.99	11%	\$6,000,000.00	to	\$7,725,000.00	4%

All fees charged as Construction Manager Fees are subject to negotiation by Owner based on scope and complexity of work.

- 9.2.25 Adjustments in the fee will be made as follows:
- 9.2.26 Adjustments due to Changes in the Project shall be made as described in the Contract Documents.
- 9.2.27 Transportation greater than 100 miles from the site for those personnel employed directly for the project. Such transportation must be approved in advance by the Owner and may be in accordance with the Construction Manager's standard personnel policy but not exceeding the limits established by Section 112.061, Florida Statutes.
- 9.2.28 COSTS NOT TO BE REIMBURSED – The Cost of the Project shall not include any cost not specifically and expressly described in Article 9, unless approved in writing by the Owner. Direct costs do not include telephones, personal vehicles, laptops or tablets, software licensing, accounting staff, any other staff not agreed to in Article 8, or any other general home office expenses. This list is a not an exclusive list.

ARTICLE 10**CHANGES IN THE PROJECT**

- 10.1 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. All changes in the Project shall be authorized as described in the Contract Documents. Except in cases of emergency endangering life or property, the CM shall allow no Changes in the Project without the prior written approval of the Owner.
- 10.2 The Owner may at any time, by written order designated to be a change order, make any change in the Project within the general scope of this Agreement (e.g. specifications, time, method or manner of performance, requirements, etc.) All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change order which causes an increase or decrease in the CM's cost or time shall require an appropriate adjustment and modification (formal amendment) to this Agreement via fully executed AIA document G-701 (or similar form). All changes to project cost and time are subject to negotiation with the Owner. Changes to project cost shall at no time exceed the price structure as set forth in Article 9.
- 10.3 The Owner's Project Manager is the only person authorized by the Owner to initiate changes in the Project. No other member of the Project Team, or field personnel, is authorized to approve changes in the Project.
- 10.4 At no time shall there be any oral change order requests by any party involved.

ARTICLE 11**DISCOUNTS, PENALTIES AND MATERIALS SALVAGE**

- 11.1 All quantity and trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment shall be credited to the Owner.
- 11.2 The CM is to provide estimates for the value and amounts of all scrap metal, recycled materials and equipment recovered for the owner's review. Owner will review and approve estimate and amounts of materials to determine final destination of all scrap and recycled materials and equipment. All monetary value recovered from scrap metal, recycled materials and equipment shall be applied to the total cost of the project. Receipts from a licensed scrap dealer or scrap yard shall be provided for the Owner's review before final payment for the project can be made. If it is determined by the Owner and the CM that scrap metal and recycled materials from the project has no recoverable economic value, then the CM must provide documentation showing amounts and types of materials deposited with invoices etc. from municipal or other certified landfill for Owner's review before final payment can be made.

ARTICLE 12**PAYMENTS TO THE CONSTRUCTION MANAGER**

- 12.1 The CM shall submit to the Owner a statement, sworn to if required, along with the cost reports showing in detail all monies paid out, cost accumulated, or costs incurred on account of the Cost of the Project during the previous period and the amount of the CM's fees due as provided herein. This data shall be attached to the Partial Pay Request form shown in *Exhibit K*. Ten percent (10%) retainage shall be held on all payments until the Project is at Substantial Completion except when approved by the Owner.
- 12.2 Invoices submitted shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Invoices for any travel expenses shall be submitted in accordance with procedures specified in Section 112.061 of the Florida Statutes governing payments by the State for travel expenses. Travel expenses, when authorized, may be reimbursed in an amount not to exceed the maximum amount established in Section 112.061.
- 12.3 The CM providing goods and services to the Owner should be aware of the following time frames pursuant to Section 215.422, Florida Statutes. Upon receipt, the Owner has forty (40) calendar days to inspect, approve, and render payment for the goods and services, as listed in Article 9 of this Agreement. The Owner has twenty (20) days to deliver a request

for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the Pay Request is received or the goods or services are received, inspected and approved.

- 12.4 If payment is not available to the Owner for transmittal to the CM within 40 days, a separate interest penalty set by the Comptroller pursuant to Section 55.03, Florida Statutes, will be due and payable, in addition to the Pay Request amount. To obtain the applicable interest rate, please contact the Agency's Fiscal Section at (850) 488-1951. The 40 days are also measured from the latter of the date the invoice is received, or the goods or services are received, inspected, approved and payment rendered. Pay Requests which must be returned to a CM because of CM preparation errors, will result in a delay in the payment. The Pay Requests payment requirements do not start until a properly completed Pay Request is provided to the Owner.
- 12.5 A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.
- 12.6 The State Comptroller's Office has made Electronic Payment available to vendors. This process should reduce the waiting time for payment by a minimum of 5 days. If the CM would like to take advantage of this service, the CM shall request in writing the "Electronic Payments" guidelines from the Owner.
- 12.7 Final payment constituting the unpaid balance of the Cost of the Project and the CM's fee, shall be due and payable as described herein, after the Owner has accepted occupancy of the Project, provided that the Project be then finally completed, that the CM has verified by its signature that it has completed all items specified on the attached *Exhibit M*, and that this Agreement has been finally performed.
- 12.8 The CM shall promptly, within seven (7) days after receipt of payment from the Owner, pay all the amount due subcontractors less a retainage of ten percent (10%) until the project is substantially complete, and based on CM's evaluation of the subcontractor's acceptable performance. 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.
- 12.9 Payments will be made for material and equipment not incorporated in the Work but delivered and suitably stored at the site or another location, of which is fully bonded and insured, subject to prior approval and acceptance by the Owner on each occasion.
- 12.10 The CM shall not withhold payments to subcontractors if such payments have been made to the CM as stated herein above.

ARTICLE 13

INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

- 13.1 The CM, as an independent contractor and not an agent, representative, or employee of the Owner, agrees to carry Commercial General Liability, Commercial Automobile Liability Insurance, Builders Risk and other appropriate forms of insurance as stated herein. The Owner shall have no liability except as specifically provided in this Agreement. This coverage shall not be lapsed or cancelled because of partial occupancy by the Owner prior to final acceptance of the Project.
- 13.2 The CM shall not commence any construction Work in connection with this Agreement until he has obtained all of the following types of insurance listed below and such insurance has been approved by the Owner. The CM shall not allow any subcontractor to commence Work on its subcontract until all similar insurance required of the subcontractor has been obtained and approved. All insurance policies shall be with qualified insurers doing business in Florida.
 - 13.2.1 Worker's Compensation Insurance - The CM shall secure and maintain during the life of this Agreement Worker's Compensation Insurance for all its employees connected with the Work of this Project and, in case any Work is sublet, the CM shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CM. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous Work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the CM shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected.

13.2.2 CM'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 as shall protect them from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by the Construction Manager or by anyone directly or indirectly employed by them, and the amount of such insurance shall be minimum limits as follows:

- | | |
|---|---|
| (a) Construction Manager's Comprehensive General Liability Coverages, Bodily Injury & Property Damage | \$1,000,000 Each Occurrence,
Combined Single Limit |
| (b) Automobile Liability Coverages, Bodily Injury & Property Damage | \$500,000 Each Occurrence,
Combined Single Limit |
| (c) Excess Liability, Umbrella Form | \$4,000,000 Each Occurrence,
Combined Single Limit |

Insurance clauses for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis.

13.2.3 Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of their subcontractors to procure and maintain during the life of the subcontract, insurance of the type specified above or insure the activities of their subcontractors in their policy, as specified above, except Excess Liability, Umbrella Form for subcontractors may be reduced upon written consent of the Owner.

13.2.4 Owner's and CM's Protective Liability Insurance - The Construction Manager shall procure as a cost of the project and furnish an Owner's and Construction Manager's Protective Liability Insurance Policy with the following minimum limits:

- | | |
|---|--|
| (a) Bodily Injury Liability & Property Damage Liability | \$1,000,000 Each Occurrence
Combined Single Limit |
|---|--|

13.2.5 Explosion, Collapse, Underground Damage (XCU) – The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.

13.2.6 Broad Form Property Damage Coverage, Products, and Completed Operations Coverages – The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products, and Completed Operations Coverages.

13.2.7 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.

13.2.8 Indemnification Rider

- a) To cover to the fullest extent permitted by law, the CM shall indemnify and hold harmless the Owner and the AE 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 Work, 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) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the CM, 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 AE or any of their agents or employees by any employee of the CM, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them 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 CM or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

- c) The obligations of the CM shall not extend to the liability of AE, its 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 AE, its agents or employees providing such giving or failure to give is the primary cause of the injury or damage.
- d) The CM hereby acknowledges receipt of ten (10) dollars and other good and valuable consideration from the Owner and acknowledges receipt of ten (10) dollars and other good and valuable consideration from the AE in exchange for giving the Owner and AE, respectively, the indemnification provided

13.2.9 Builder's Risk Coverage – Prior to the time any exposure to loss may occur, the CM shall purchase and maintain during the life of this Agreement a “Builders Risk Policy” on the entire value of the Work under this contract, including any subsequent modifications thereto. The policy shall insure the Owner, Construction Manager and any Subcontractors for their interests in the project as described herein. This policy shall be written on a Replacement Cost basis, Completed Value, Special (all “Risks of Physical Loss”) Form including Flood and shall include coverage for materials, supplies, machinery, equipment and fixtures which will become a permanent part of the building, and reasonable compensation for Architect/Engineer’s services or expenses required as a result of an insured loss. This coverage shall not be lapsed or cancelled because of partial occupancy by the Owner prior to final acceptance of the Project.

13.2.10 Certificate of Insurance - The Owner shall be furnished proof of coverage of Insurance as follows:

Certificate of Insurance form will be furnished to the Owner along with the Contract Documents. These shall be completed and signed by the authorized Florida Resident Agent, and returned to the office of Facility Services, The Department of Juvenile Justice, ATTN: Facilities Contract Manager. This Certificate shall be dated and show:

- (1) The name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date.
- (2) Statement that the Insurer will mail notice to the Owner and a copy to the AE at least fifteen (15) days prior to any material changes in provisions or cancellation of the policy.
- (3) Certificate of Insurance shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverage’s required in this Section commencing at 13.2.1 and ending with 13.2.7.

13.3 The Owner may elect to purchase insurance under an Owner Provided Insurance Program, in which case the Construction Manager will not be required to provide insurance but will provide coordination with the Owner and the Owner’s insurance administrator, as required.

13.4 The State of Florida shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Construction Manager and/or subcontractor providing such insurance.

13.5 The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided herein to the extent covered by such insurance except such rights as they may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all Subcontractors.

13.6 The Owner and Construction Manger 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.

13.7 Indemnity - To cover to the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner and the AE 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) including the loss of use resulting therefrom, and (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.

13.8 Waiver of Subrogation

- 13.8.1 The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.3 to the extent covered by such insurance except such rights as they may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
- 13.8.2 The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
- 13.8.3 The Owner waives subrogation against the Construction Manager on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
- 13.8.4 If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner of such policies will cause them to be so endorsed, failure to obtain proper endorsement nullifies the waiver of subrogation.

ARTICLE 14

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

- 14.1 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, damages and terminal expenses incurred by the Construction Manager.
- 14.2 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, after seven (7) days written notice during which period the Construction Manager fails to perform such obligation, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.
- 14.3 If the Construction Manager is adjudged a bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if it persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five (45) days or more behind schedule) which has been adopted by the Project Team, or if it fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Construction Manager and its surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method it may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 7.

Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract Work).

- 14.4 If the Construction Manager refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Construction Manager in conjunction with this Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Construction Manager and its surety, if any, seven (7) days written notice, during which period Construction Manager still fails to allow access, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the project by whatever method it may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 7. Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the CM (excluding monies owed the Construction Manager for subcontract Work).
- 14.5 If the Owner terminates this Agreement other than pursuant to Article 14.2 or Article 14.3 it shall reimburse the Construction Manager for any unpaid Cost of the Project due it under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of its fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the GMP, if established, otherwise to the Owner's Construction Budget. The Owner shall also pay to the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment retained. In case of such termination of Agreement the Owner shall further assume and become liable for obligations, commitments and unsettled contractual claims that the Construction Manager has previously undertaken or incurred in good faith in connection with said Project. The Construction Manager shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps including the legal assignment of its contractual rights, as the Owner may require for the purpose of fully vesting in it the rights and benefits of the Construction Manager under such obligations or commitments.
- 14.6 After the establishment of the GMP or at the completion of the Design Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the Owner, the Owner may terminate this Agreement and pay the Construction Manager its proportionate fee due in accordance with Article 8 plus any costs incurred.

ARTICLE 15

ASSIGNMENT AND GOVERNING LAW

- 15.1 The Owner and Construction Manager respectively, bind themselves, their partners, successors, assigns and legal representative to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor 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 has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida.
- 15.3. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

ARTICLE 16

NOTICE OF CLAIM; WAIVER OF REMEDIES; NO DAMAGES FOR DELAY.

- 16.1 The Owner's liability to the Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment

by the Owner of the costs, damages or losses because of changed conditions under which the Work is to be performed, or for additional Work, shall be governed by the following provisions:

- (a) All claims must be submitted as a Request for Change Order in the manner as provided herein;
- (b) The Construction Manager must submit a Notice of Claim to Owner and to the AE within twenty (20) days of when the Construction Manager was or should have been aware of the occurrence of the event giving rise to the claim; and
- (c) Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the Work affected.

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.

- 16.2 After receipt of a Request for Change Order, the Owner, in consultation with the AE, shall deliver to the CM its written determination of the claim. As to matters subject to the determination by final agency action (not actions for breach of contract or tort) the Owner's written decision shall be final agency action unless the Construction Manager requests an administrative proceeding pursuant to Section 120.57, Florida Statutes, by filing a petition in compliance with Rule Chapter 28-106. within thirty (30) days of the Construction Manager's receipt of the Owner's determination.

The venue for all civil and administrative actions against the Owner shall be in Leon County, unless otherwise agreed by the parties.

- 16.3 For Work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 9, 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 AE, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16 above, for an extension of the scheduled construction time. In the event of a change in such Work, the Construction Manager's claim for adjustments in the contract sum is limited exclusively to its actual costs for such changes plus 5% for profit. The Construction Manager expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such Work and eliminate any other remedies for claim for increase in the contract price, delays, changes in the Work, damages, losses or additional compensation.

ARTICLE 17

MISCELLANEOUS

- 17.1 Any monies not paid when due to either party under this contract shall not bear interest except as may be required by Section 215.422, Florida Statutes.
- 17.2 The Construction Manager shall maintain a system of accounting consistent with generally accepted accounting principles. The Construction Manager shall preserve all accounting records of the Construction Manager's Direct Personnel, Subcontractors, and Reimbursable Expenses Costs pertaining to each Project and shall make such records available for review by the Owner or its representative at any time during the performance of the Project and for a period of four (4) years after final acceptance of the Project. In the event any Work is subcontracted the Construction Manager shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.
- 17.3 The Construction Manager's Project Records shall be maintained as prescribed hereinabove for the minimum period required by Federal Law and shall be made available to the Owner or its authorized representative at mutually convenient times.
- 17.4 Warranties called for by this Agreement or by the Drawings and Specifications shall commence on the Date of Owner Occupancy of the project.

- 17.5 The Construction Manager shall assure that all labor employed by Construction Manager and its trade contractors for Work on the project shall work in harmony with all other labor being used by building and construction contractors now or hereafter on the site of the project.
- 17.5.1 The Construction Manager further agrees that this provision will be included in all subcontracts of the Subcontractors as well as the Construction Manager's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.
- 17.6 If the Construction Manager employs apprentices on the project, the behavior of the Construction Manager and the Owner shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Construction Manager will include a provision similar to the foregoing sentence in each subcontract.
- 17.7 The Construction Manager warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Construction Manager) to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation individual or firm (other than a bona fide employee working solely for the Construction Manager) any fee, commission, percentage, gift, or any other consideration contingent upon resulting from the award or making of this Agreement.
- 17.8 The Construction Manager shall comply with applicable laws, rules, regulations, and special requirements concerning performance under this contract including all requirements regarding Equal Employment Opportunity and Affirmative Action programs.
- 17.8.1 No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in the performance of this Agreement.
- 17.8.2 The employment of unauthorized aliens by the Construction Manager or subcontractor is considered a violation of Statute 448.09 of the Immigration and Nationality Act. If the Construction Manager or subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Construction Manager shall be responsible for including this provision in all subcontracts with private organizations as a result of this Agreement.
- 17.9 The Construction Manager agrees that after completion of all Work for the Project and all Amendments thereto and prior to final payment, it will execute and deliver to the Owner an "Assignment of Anti-trust Claims" as shown in the Special Conditions of the Contract.
- 17.9.1 Discriminatory Vendor List - An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

The contractor shall notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Contract.

Additional information on the above procedures is available from the owner at (850) 717-2753.

- 17.10 State of Florida Public Entity Crime Statement: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, for the construction or repair of a public building or public Work, may not submit bids on leases or real property to a public entity, may not be awarded or perform Work as a Construction Manager, contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed in the convicted vendor list.

- 17.10.1 Criminal Background Checks Unless exempted by the Owner in writing, background checks shall be obtained in accordance with Florida Department of Juvenile Justice Policy number FDJJ-1800 for all employees and agents of the Construction Manager and his subcontractors, their agents and employees, and all other persons performing any of the work under a contract to the CM. The cost of performing Criminal Background Checks will be included in the Construction Manager's expenses as defined in Article 8 *Construction Manager's Expenses* of this contract. Information and forms can be obtained by contacting the Florida Department of Juvenile Justice Background Screening Unit at (850) 921-6345.
- 17.11 Assignment of Antitrust Claims - For and in recognition of good and valuable consideration, receipt of which is hereby acknowledged, the Construction Manager hereby conveys, sells assigns and transfers to the State of Florida all rights, title and interest in all causes to action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by the State of Florida pursuant to this contract.
- 17.12 The performance of Work under this Contract may be terminated by the Owner in accordance with this clause in whole, or from the time in part, whenever the Owner shall determine that such termination is in the best interest of the Owner. Upon termination the Construction Manager shall be entitled to payment and profit for work completed to the time of termination only. The Owner and Construction Manager shall determine the percentage of completion, if applicable, based upon the approved Schedule of Values.
- 17.13 This Agreement is for a period of three (3) years, beginning on the date of the last affixed signature herein, and may be renewed for an additional three (3) year period at the option of the Owner. Such renewals shall be contingent upon satisfactory performance evaluations by the Owner and are subject to the availability of funds. If Projects are in process prior to the expiration of this Agreement, then the Agreement will remain in full effect until such Projects are completed and approved by the Owner.
- 17.14 During the contractual period the Construction Manager agrees to repair or replace any defective materials or workmanship for a period of one year from the date of acceptance of each Project.
- 17.15 This Agreement represents the entire agreement of the parties. Any alternations, variations, changes, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.
- 17.16 Both parties to this Agreement were represented by legal counsel. No presumptions shall be made against either party based on authorship of any provision.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date signed.

CONSTRUCTION MANAGER**ATTEST:**

By _____
Corporate Secretary's Signature

Type/Print Signatory's Name and Title

Type/Print Company Name

Type/Print FEID No.

Remittance Address:

Type/Print Company Address

As Witnessed:

By _____

Type/Print Signatory's Name and Title

(Corporate Seal)

DEPARTMENT OF JUVENILE JUSTICE**APPROVED:**

By _____
Christopher Goodman, Interim Chief of Staff

APPROVED:

By _____
Corporate President's Signature

Type/Print Signatory's Name and Title

Type/Print Company Address

Type/Print City, State and Zip Code

Type/Print City, State and Zip Code

Date _____

EXHIBIT A**PROJECT TEAM ASSIGNED REPRESENTATIVES**

OWNER	NAME	TELEPHONE
State of Florida, Department of Juvenile Justice		(850) 717-2300
Project Manager	TBD	
Facility Services Manager	Robert Bass	(850) 717-2756
Facilities Contract Manager	Brittney Henderson	(850) 717-2753

ARCHITECT-ENGINEER	NAME	TELEPHONE
Project Principal		
Project Manager		
Project Architect		
Construction Administrator		
Architectural Inspector		
Civil Engineer		
Civil Engineering Inspector		
Electrical Engineer		
Electrical Engineer Inspector		
Environmental Consultant		
Kitchen Consultant		
Mechanical Engineer		
Mechanical Engineer Inspector		
On Site Representative		
Programmer		
Structural Engineer		
Structural Engineering Inspector		
Surveyor		

CONSTRUCTION MANAGER	NAME	TELEPHONE
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Project Engineer
Project Manager
Project Superintendent
Construction Estimator

Any change of a Project Representative listed herein shall be made after written notice is given to the Owner.

EXHIBIT C**CONSTRUCTION MANAGER'S PERSONNEL**

OFF-SITE SUPPORT STAFF	
Individual	Title

ON-SITE SUPPORT STAFF	
Individual	Title

Any change of a Project Representative listed herein shall be made after written notice is given to the Owner.



**STATE OF
FLORIDA
DEPARTMENT OF
JUVENILE JUSTICE**

EXHIBIT D

Distribution:

_____ Administrator of Development	_____ Client Agency
_____ DJJ Project Manager	_____
_____ Architect/Engineer	_____
_____ Construction Manager	_____

ARCHITECT/ENGINEER'S CERTIFICATE OF SUBSTANTIAL COMPLETION

DJJ PROJECT NO: _____

ARCHITECT/ENGINEER: _____

DJJ PROJECT NAME: _____

CONSTRUCTION MANAGER: _____

OWNER:

STATE OF FLORIDA

CONTRACT FOR: _____

DEPARTMENT OF JUVENILE JUSTICE

CONTRACT DATE: _____

ATTN: _____

DATE OF ISSUANCE: _____

DJJ Project Manager

PROJECT OR DESIGNATED PORTION SHALL INCLUDE: _____

The work performed under this Contract has been reviewed and found to be substantially complete. The Date of Substantial Completion of the Project or portion thereof designated above is hereby established as _____ which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

DEFINITION OF DATE OF SUBSTANTIAL COMPLETION

The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the AE when construction is sufficiently complete, in accordance with the Contract Documents. The Owner must be able to occupy or utilize the Work or designated portions thereof for the use for which it is intended as expressed in the Contract Documents.

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

ARCHITECT/ENGINEER

BY: _____

DATE: _____

The Owner accepts the Work or designated portion thereof as substantially complete.

The State of Florida

Department of Juvenile Justice

Bureau of Contacts and Facility Services

BY: _____

DATE: _____

The Construction Manager will complete or correct the Work on the list of items attached hereto within the time prescribed in the contract from the above Date of Substantial Completion.

CONSTRUCTION MANAGER

BY: _____

DATE: _____

EXHIBIT E**CONSTRUCTION MANAGER'S AFFIDAVIT OF CONTRACT COMPLETION**

AGENCY: _____

PROJECT NO: _____ CONTRACT NO: _____

PROJECT TITLE: _____

CONSTRUCTION MANAGER: _____

CONTRACT FOR: _____

CONTRACT DATE: _____ CONTRACT AMOUNT: _____

CONSTRUCTION MANAGER'S AFFIDAVIT

I solemnly swear and affirm: That the work under the above named contract and all amendments thereto have been completed in accordance with the requirements of said contract; that all costs incurred for equipment, materials, labor, and services against the project have been paid; that no liens have been attached against the project; that no suits are pending by reason of work on the project under the contract; that all Workmen's Compensation claims are covered by Workmen's Compensation insurance as required by law; that all public liability claims are adequately covered by insurance, and that the Construction Manager shall save, protect, defend, indemnify, and hold the Owners harmless from and against any and all claims which arise as a direct or indirect result of any transaction, event or occurrence related to performance of the work contemplated under said contract.

(SEAL)

CONSTRUCTION MANAGER:

Title: _____

Date: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____ 20 ____, by:

 (name of officer or agent) (title of officer or agent) of

 (name of corporation acknowledging) (state or place of corporation) corporation, on behalf of the

corporation. He/she is personally known or has produced _____ as identification.
 (type of identification)

(Notary Public)

(Signature of person taking acknowledgement)_____
(Name typed or printed and notary stamp)_____
(Title or Vendor)_____
(Serial number, if any)

EXHIBIT E (cont.)
CERTIFICATE OF CONTRACT COMPLETION

DJJ PROJECT NO: _____ DJJ CONTRACT NO: _____

DJJ PROJECT TITLE: _____

CONSTRUCTION MANAGER: _____

CONTRACT DATE: _____ DATE OF FINAL COMPLETION: _____

CERTIFICATE OF ARCHITECT/ENGINEER

I CERTIFY: That the work under the above contract has been satisfactorily completed on the date set forth in accordance with the terms of the contract; that the Construction Manager has submitted its sworn affidavit as evidence that he has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

 ARCHITECT/ENGINEER FIRM NAME BY DATE

TO BE COMPLETED BY THE ARCHITECT-ENGINEER			
THROUGH THE SUBSTANTIAL COMPLETION PHASE	DATE	DAYS	LIQUIDATED DAMAGES
			to be completed by owner
1. Notice to Proceed (N.T.P.)		XXXXX	
2. Time Specified in Original Contract for Substantial Completion (S.C.)	XXXXX		
3. Extension Granted by Change Orders (Days Between Original Contract S.C. and Final Contract S.C.)	XXXXX		
4. Total Days Allowable to Substantial completion (Add Lines 2 and 3)	XXXXX		
5. Project Substantially Completed as Certified by A/E (Total Days from N.T.P. through Date certified by A/E)			
6. Substantial Completion Overrun (Subtract Line 4 from 5 and Enter Overrun)	XXXXX		@ \$ _____ Per Day = \$
THROUGH THE FINAL COMPLETION PHASE	DATE	DAYS	LIQUIDATED DAMAGES
			to be completed by owner
1. Time Specified in Contract, Between Substantial & Final Completion	XXXXX		
2. Extensions Granted by Change Orders (Days Between S.C. & Final Completion	XXXXX		
3. Total Days Allowable Between Substantial & Final Completion (Add Lines 1 & 2)	XXXXX		
4. Date Actually Completed and Total Days Between Actual S.C. & Date Certified by A/E as Actually being Finally Complete.			
5. Final Completion Overrun (Subtract Line 3 & 4 and Enter Overrun)	XXXXX		

TOTAL LIQUIDATED DAMAGES \$ _____

 DJJ PROJECT MANAGER BY DATE

 DJJ ARCHITECT SUPERVISOR BY DATE

EXHIBIT I**CONSTRUCTION MANAGER'S PERSONNEL**

TO BE ASSIGNED DURING CONSTRUCTION ON-SITE			
Individual	Title	Duration In Months	Percentage of Time Available

TO BE ASSIGNED DURING CONSTRUCTION OFF-SITE			
Individual	Title	Duration In Months	Percentage of Time Available

Any change of a Project Representative listed herein shall be made after written notice is given to the Owner.

EXHIBIT K

**DEPARTMENT OF JUVENILE JUSTICE
FACILITY SERVICES
CONSTRUCTION MANAGER'S CERTIFICATE OF PARTIAL PAYMENT**

Construction Manager (Name and Address): _____

AE Job No: _____

Contract Time (Calendar Days): _____

Time Elapsed to Date: _____

Partial Request: ☐ Final Request: ☐

Request No: _____

For Period Ending: _____

Project Name: _____

State Project No: _____

Federal Project No: _____

Change Orders Approved in Previous Months by OWNER – TOTAL			
Subsequent No.	Date Approved	ADDITIONS	DEDUCTIONS
NET CHANGE TOTALS:			

MBE PAYMENTS: Show individual MBE payments separately on schedule of values and on Exhibit O and total in this section.

TOTAL (Amount paid this certificate to MBE subcontractors):

\$ _____

Original Contract Sum: \$ _____

Change Orders Net: \$ _____

Contract Sum To Date: \$ _____

Balance To Finish: \$ _____

Completed To Date: \$ _____

Materials Stored: \$ _____

Total Completed & Stored: \$ _____

Less Retainage ____%: \$ _____

Add Back Retained

Amount Covered By

Securities: \$ _____

TOTAL: \$ _____

Less Previous Certificates: \$ _____

Less Credit By

Owner: : \$ _____

THIS CERTIFICATE: \$ _____

CERTIFICATION BY THE CONSTRUCTION MANAGER: According to the best of my knowledge and belief, I certify that all items and amounts shown on the face of this Application are correct, that all work has been performed and material supplied in full accordance with the terms and conditions of the Contract, and that all materialmen, laborers and subcontractors, as defined in Chapter 713.01, Florida Statutes, have been paid the amounts due them out of any previous payments made to the Construction Manager by the Owner. Further, I agree to promptly pay each materialmen, laborer and subcontractor, as defined in Chapter 713.01, Florida Statutes, upon receipt of payment from the Owner, out of the amount paid to me on, account of such materialman's laborer's or subcontractor's work, the amount to which said materialman, laborer and subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to myself on account of such materialman's, laborer's and subcontractor's work.

CONSTRUCTION MANAGER: _____

By: _____

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public: _____

My Commission Expires: _____

Date: _____

STATE OF FLORIDA

COUNTY OF _____

CERTIFICATION BY THE ARCHITECT- ENGINEER: I certify that I have checked and verified this Progress Payment Application; that to the best of my knowledge and belief, the above application is a true statement of the value of the work performed and the materials suitable stored on the site; that all work and materials included in this Certificate have been inspected by me or by my authorized assistants; that all work has been performed and material supplied in full accordance with the terms of this Contract; and I approved for payment the amount noted above.

ARCHITECT-ENGINEER _____

Date: _____

REVIEWED AND RECOMMENDED FOR PAYMENT

Owner's Project Manager, _____

Date: _____

APPROVED FOR SERVICES, PERFORMED AS STATED BY

EXHIBIT K (continued)

Chapter 713.01, Florida Statutes, defines Laborers, Materialmen and Subcontractors as follows:

- (1) "Laborer" means any person other than an architect, landscape architect, engineer, land surveyor, and the like who, under properly authorized contract, personally performs on the site of the improvement labor or services for improving real property and does not furnish materials or labor service of others.
- (2) "Materialman" means any person who furnishes materials under contract to the owner, Construction Manager, subcontractor, or sub-subcontractor on the site of the improvement or for specially fabricated materials off the site of the improvement for the particular improvement, and who performs no labor in the installation thereof.
- (3) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with a Construction Manager for the performance of any part of such Construction Manager's contract.

EXHIBIT M**ITEMS TO BE SUBMITTED WITH CONSTRUCTION MANAGER'S
REQUEST FOR FINAL PAYMENT**

- _____ 1. Rush Requisition Routing Slip
- _____ 2. Pay Request (4 copies with original signatures and original seals, noted as Final)
- _____ 3. Final Schedule of Contract Values
- _____ 4. Consent of Surety to make final Payment (signed and sealed)
- _____ 5. Power of Attorney from Surety for Release of Final Payment (Signed and sealed and dated same as Consent of Surety)
- _____ 6. Certificate of Contract Completion
 - _____ a. page one completed by the CM/General Construction Manager (original plus three copies)
 - _____ b. page two completed by AE (original plus three copies)
- _____ 7. Satisfactory Conclusion or Release of Lien from all subcontractors or laborers who have filed Intent to Liens or have indicated non-payment from the general Construction Manager (especially if attorneys are involved)
- _____ 8. Construction Manager's Guarantee of Construction for one year from the date of substantial completion
- _____ 9. Copy of the approval by the AE and the transmittal to the using agency of manuals, shop drawings, as-builts (one set of sepias, two sets of prints), brochures, warranties, and List of Subcontractors, with telephone numbers and addresses
- _____ 10. Verification that Using Agency personnel have been trained in the operation of their new equipment (per system: HVAC, controls, fire alarm, etc.), attendance lists and preferred
- _____ 11. Fully executed Roof Warranty (if applicable) in the name of the Using Agency
- _____ 12. Other special warranties as required by specifications, in the name of the Using Agency
- _____ 13. Architect's Certificate of Specification of Asbestos Containing Materials
- _____ 14. Construction Manager's Certificate of Asbestos Use
- _____ 15. Copy of Certificate of Occupancy

NOTE: The Project Manager Shall verify the math of all Pay Requests prior to signing Final Pay Request to assure correct payment.

State Contract No.: _____ State Project Number: _____

State Project Name: _____ Project Location: _____

Construction Manager's: _____

Construction Manager's Project Manager Signature: _____



STATE OF FLORIDA
DEPARTMENT OF JUVENILE JUSTICE

MINORITY BUSINESS DATA SUMMARY FORM

DJJ PROJECT #: _____

DJJ PROJECT MANAGER: _____

DJJ PROJECT NAME: _____

PROJECT LOCATION (COUNTY): _____

REGION / DISTRICT: _____

VENDOR: _____

VENDOR INVOICE #: _____

ADDRESS: _____

VENDOR INVOICE AMOUNT: _____

DJJ CONTRACT #: _____

CONTRACT AMOUNT: _____

SELECT THE BUSINESS CLASSIFICATION AND MINORITY TYPE AND INSERT THE APPLICABLE CODE IN THE APPROPRIATE COLUMN:

Business Classification

A – Non-Minority
B – Small Bus (State)*
C – Small Bus (Federal)
E – Gov't Agency
G – P.R.I.D.E.

Certified MBE

H – African American
I – Hispanic
J – Asian/Hawaiian
K – Native American
M – American Woman

Non-Certified Minority

N – African American
O – Hispanic
P – Asian/Hawaiian
Q – Native American
R – American Woman

Non-Profit Organization

S – 51% or more Minority Board of Directors
T – 51% or more Minority Officers
U – 51% or more Minority Community Served
V – Other Non-Profit

INSTRUCTIONS

VENDOR: Complete this form monthly and submit along with your invoice to ensure prompt payment.
PROJECT MANAGER: Forward this form along with invoice to Construction Control Specialist.

[*Defined as 100 employees or less and \$3 million or less net worth and domiciled in Florida; RE: SECTION 288.703, FLORIDA STATUTES]

LINE	*REGISTERED VENDOR NAME, MBE OR SUBCONTRACTOR	SPURS, SSAN, OR FEID VENDOR #	CODE	CONTRACT \$ AMOUNT	INVOICE/ \$ AMOUNT	AMOUNT PAID TO PRIME CONTRACTOR	AMOUNT PAID TO MBE SUBCONTRACTOR
1							----
2						----	
3						----	
4						----	
5						----	
6						----	

[*NOTE: Line 1 above is reserved for prime contractor data; Lines 2 – 6 above are reserved for subcontractor data]

VENDOR CERTIFICATION: I certify that I have checked and verified MBE participation and that to the best of my knowledge and belief, the above information is a true statement of the value of the work performed by the above firms and that all work has been performed and material supplied in full accordance with the terms of said Contract; and the above values are represented in the Invoice.

VENDOR SIGNATURE

Date: