This instrument prepared by,
And when recorded, return to:

Lindsay Whelan, Esq.
Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, FL 32301

Property appraisers parcel identification (Folio) numbers: 0786002200

SPECIAL WARRANTY DEED

THIS **SPECIAL WARRANTY DEED** is made this _____ day of _____, 2020, by and between **WEST VILLAGES IMPROVEMENT DISTRICT**, an independent district of the State of Florida, whose address is c/o Special District Services, Inc., 2501A Burns Road, Palm Beach Gardens, Florida 33410 ("Grantor"); and the **CITY OF NORTH PORT, FLORIDA**, a municipal corporation of the State of Florida, whose address is 4790 City Hall Boulevard, North Port, Florida 34286 ("Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations or governmental entities.)

W I T N E S S E T H:

The Grantor, for and in consideration of the sum of $10.00 and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the Grantee, all that certain land situated in the City of North Port, Sarasota County, Florida, described in the attached **Exhibit A**.

Together with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and to have and to hold the same in fee simple forever. Such conveyance is subject to all matters of record; however, reference hereto shall not operate to re-impose the same.

The Grantor hereby covenants with the Grantee that the Grantor is lawfully seized of said land in fee simple and that the Grantor has good right and lawful authority to sell and convey said land. Further, the Grantor hereby warrants the title to said land and will defend the same against the lawful claims of all persons or entities whomsoever claiming by, through or under the Grantor. Additionally, the Grantor warrants that it has complied with the provisions of Section 196.295, Florida Statutes.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of:

Witness: _____

Name: Steven C. Lewis

Witness: _____

Name: TARA SALL

GRANTOR:

WEST VILLAGES IMPROVEMENT DISTRICT a local unit of special government established and existing pursuant to Ch. 189, Florida Statutes

_____

John Luczynski
Chairman, Board of Supervisors

STATE OF FLORIDA

COUNTY OF Sarasota

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 10th day of February, 2020, by John Luczynski as Chairman of the Board of Supervisors of the West Villages Improvement District. He is personally known to me or has produced _____ as identification.

_____

Notary Public
Name: Michele Y. Lambdin
State of Florida at Large
Commission Expires: 3/25/2022

(NOTARY SEAL)

Notary Public State of Florida
Michele Yvonne Lambdin
My Commission GG 199655
Expires 03/25/2022

EXHIBIT A

The land referred to herein below is situated in the County of Sarasota, State of Florida, and is described as follows:

A tract of land lying in Section 33, Township 39 South, Range 20 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of said Section 33; thence S.00°16'02"W., along the East line of said Section 33, a distance of 289.02 feet to the POINT OF BEGINNING, said point being the intersection of the Southerly right-of-way line of Tamiami Trail (U.S.41, Section 17010-2508, 204.00 foot wide public right-of-way); thence continue S.00°16'02"W., along said East line of Section 33, a distance of 1,702.14 feet; thence N.90°00'00"W., a distance of 404.30 feet; thence N.28°37'40"W., a distance of 1,003.23 feet; thence N.00°01'27"E., a distance of 355.39 feet; thence S.89°58'33"E., a distance of 740.41 feet; thence N.19°42'14"E., a distance of 210.88 feet; thence N.00°16'02"E., a distance of 284.07 feet to the point of curvature of a non-tangent curve to the left, having a radius of 3,011.73 feet and a central angle of 01°33'05", said point being on the above mentioned Southerly right-of-way line of Tamiami Trail; thence Easterly along the arc of said curve and said Southerly right-of-way line, a distance of 81.54 feet, said curve having a chord bearing and distance of S.78°34'49"E., 81.54 feet, to the POINT OF BEGINNING.

EXHIBIT 2 to Resolution 2020-R-07

WEST VILLAGES IMPROVEMENT DISTRICT - WASTEWATER TREATMENT PLANT (WWTP)
ESTOPPEL LETTER

DATE:	3/4/2020
OWNER:	**WEST VILLAGES IMPROVEMENT DISTRICT**
LOT:	**TRACT LYING IN SEC 33-39-20 DESC AS COM AT E 1/4 COR OF SAID SEC 33 TH S 00-16-02 W ALONG E LINE OF SAID SEC 33 A DISTANCE OF 289.02 FT FOR POB SAID PT BEING ON SLY R/W...**
LOT TYPE:	**Wastewater Treatment Plant (WWTP)**
FOLIO NUMBER:	**786002200**

CURRENT OUTSTANDING WVID DEBT ASSESSMENT FOR THE WWTP:	**$0.00**
Note: This property is not part of any WVID Bond issues and therfore has no debt assessment or balance.	
CURRENT OUTSTANDING WVID OPERATION & MAINTENANCE ASSESSMENT FOR THE WWTP :	**$0.00**
Note: This property is currently owned by the WVID and therfore has no Operations or Maintenance assessments from WVID.	
ESTOPPEL FEE:	**$0.00**
TOTAL DUE:	**$0.00**

PAYABLE TO WEST VILLAGES ID:	**$0.00**
PAYABLE TO SPECIAL DISTRICT SERVICES, INC:	**$0.00**

The check for the Bond Prepayment should be made payable to:
West Villages Improvement District

The check for the Estoppel Fee should be made payable to:
Special District Services, Inc.

The checks should be mailed to:
Special District Services, Inc.
2501A Burns Road
Palm Beach Gardens, FL. 33410

For inquiries, call: (561) 630-4922
Toll Free (877) 737-4922
Fax (561) 630-4923

Signed: _____

Date: 3/4/2020

NO-LIEN AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF SARASOTA)

BEFORE ME, the undersigned notary public, personally appeared **John Luczynski** ("Affiant"), who, having been first duly sworn according to law, represents, warrants, deposes and says:

1. He has personal knowledge of all matters set forth in this Affidavit, is over the age of 18 years, and is competent to make, execute, and deliver this Affidavit.

2. He is the Chairman of the Board of Supervisors of **WEST VILLAGES IMPROVEMENT DISTRICT** (the "District"). The District is the owner of the fee simple title to certain real property situated in Sarasota County, Florida, legally described on **Exhibit A** attached hereto and by this reference incorporated herein (the "Property"). There are no other persons or entities who have an ownership interest in the Property other than the District.

3. To the best of Affiant's knowledge and belief, there are no disputes concerning the ownership or the location of the boundary lines of the Property as of this date.

4. The Property is located within the District's Unit of Development No. ("Unit No. 1") and Unit of Development No. 6 ("Unit No. 6").

5. Pursuant to Florida common law, absent an expression of legislative intent, special assessments cannot be imposed on government-owned lands. The District's enabling legislation, Chapter 2004-456, *Laws of Florida*, as amended, does not confer any such authority to allow the District to impose special assessments on government-owned property.

6. To the best of Affiant's knowledge and belief, there are no outstanding or unpaid state or federal taxes or assessments (pending or certified) relative to the Property. While an assessment lien relative to Unit No. 1 was originally imposed upon the Property, such lien is no longer effective or enforceable by Florida law as the Property is presently owned by a governmental entity. Further, no assessment lien relative to Unit No. 6 has been imposed relative to the Property as no bonds or other debt instruments have been issued relative to that unit. Upon conveyance of the Property to the City, the District shall not impose or seek to collect special assessments on the Property.

7. To the best of Affiant's knowledge and belief, there are no unpaid invoices incurred by or on behalf of the District, either for labor or materials used in making improvements or repairs on the Property, or for services of architects, surveyors, or engineers incurred in connection with the Property; outstanding mortgages, claims of lien, notices of commencement, contracts for sale, agreements for deed; or actions, proceedings, liens, judgments, bankruptcies, liens, or executions pending or recorded relative to the Property.

8. This Affidavit is made and given by Affiant with full knowledge of applicable laws regarding sworn Affidavits and the penalties and liabilities resulting from false statements and misrepresentations therein.

FURTHER AFFIANT SAYETH NOT.

JOHN LUCZYNSKI, CHAIRMAN

STATE OF FLORIDA)
COUNTY OF Sarasota)

The foregoing instrument was sworn to and ascribed before me by means of ☑ physical presence or ☐ online notarization, this 9th day of March, 2020, by John Luczynski, as Chairman of the Board of Supervisors of the West Villages Improvement District, for and behalf of such entity.

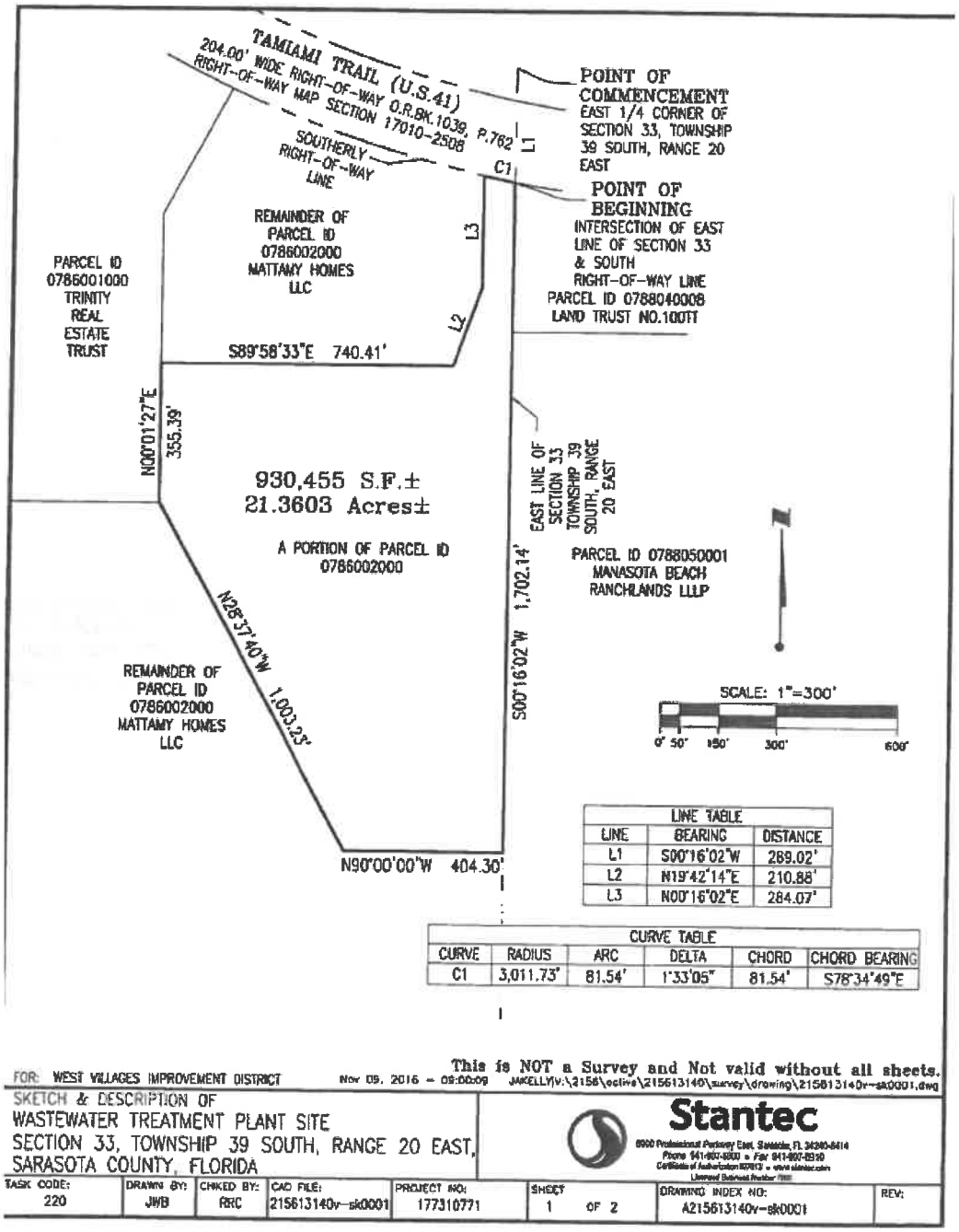
NOTARY STAMP:

DEBRA ZIMMERMAN
MY COMMISSION # GG 307446
EXPIRES: June 29, 2023
Bonded Thru Notary Public Underwriters

Debra Zimmerman
Name: Debra Zimmerman
Personally Known ✓
OR Produced Identification _____
Type of Identification _____

EXHIBIT A

Legal Description of the Property



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°16'02"W	289.02'
L2	N19°42'14"E	210.88'
L3	N00°16'02"E	284.07'

CURVE TABLE					
CURVE	RADIUS	ARC	DELTA	CHORD	CHORD BEARING
C1	3,011.73'	81.54'	1°33'05"	81.54'	S78°34'49"E

This is NOT a Survey and Not valid without all sheets.

FOR: WEST VILLAGES IMPROVEMENT DISTRICT Nov 09, 2016 - 09:00:09 J:\KELLY\V:\2158\active\215613140\survey\drawing\215613140v-sk0001.dwg

SKETCH & DESCRIPTION OF
WASTEWATER TREATMENT PLANT SITE
SECTION 33, TOWNSHIP 39 SOUTH, RANGE 20 EAST,
SARASOTA COUNTY, FLORIDA

Stantec
6900 Professional Parkway East, Sarasota, FL 34240-8414
Phone 941-907-6900 • Fax 941-907-6910
Certificate of Authorization #00970 • www.stantec.com
Licensed Business Number 7593

TASK CODE:	DRAWN BY:	CHKED BY:	CAD FILE:	PROJECT NO:	SHEET	DRAWING INDEX NO:	REV:
220	JWB	RRC	215613140v-sk0001	177310771	1 OF 2	A215613140v-sk0001	

DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land lying in Section 33, Township 39 South, Range 20 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of said Section 33; thence S.00°16'02"W., along the east line of said Section 33, a distance of 289.02 feet to the POINT OF BEGINNING, said point being the intersection of the southerly right-of-way line of Tamiami Trail (U.S.41, Section 17010-2508, 204.00 foot wide public right-of-way); thence continue S.00°16'02"W., along said east line of Section 33, a distance of 1,702.14 feet; thence N.90°00'00"W., a distance of 404.30 feet; thence N.28°37'40"W., a distance of 1,003.23 feet; thence N.00°01'27"E., a distance of 355.39 feet; thence S.89°58'33"E., a distance of 740.41 feet; thence N.19°42'14"E., a distance of 210.88 feet; thence N.00°16'02"E., a distance of 284.07 feet to the point of curvature of a non-tangent curve to the left, having a radius of 3,011.73 feet and a central angle of 01°33'05", said point being on the above mentioned southerly right-of-way line of Tamiami Trail; thence easterly along the arc of said curve and said southerly right-of-way line, a distance of 81.54 feet, said curve having a chord bearing and distance of S.78°34'49"E., 81.54 feet, to the POINT OF BEGINNING.

Said tract contains 930,455 square feet or 21.3603 acres, more or less.

NOTES:
1. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA SURVEYOR AND MAPPER, THIS SKETCH, DRAWING, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY.
2. BEARINGS SHOWN HEREON ARE RELATIVE TO THE EAST LINE OF SECTION 33, TOWNSHIP 39 SOUTH, RANGE 20 EAST, BEING S.00°16'02"W.
3. THIS IS A SKETCH ONLY AND DOES NOT REPRESENT A FIELD SURVEY.



Robert R. Cunningham, P.S.M.
Florida Registration No. 6924



FOR: WEST VILLAGES IMPROVEMENT DISTRICT

Nov 09, 2016 - 09:00:09 JAKELLY(N:\2156\active\215613140\survey\drawing\215613140v-sk0001.dwg

This is NOT a Survey and Not valid without all sheets.

SKETCH & DESCRIPTION OF
WASTEWATER TREATMENT PLANT SITE
SECTION 33, TOWNSHIP 39 SOUTH, RANGE 20 EAST,
SARASOTA COUNTY, FLORIDA

Stantec
4900 Professional Parkway East, Sarasota, FL 34240-8414
Phone: 941-907-6900 • Fax: 941-907-6910
Certificate of Authorization #2913 • www.stantec.com
Licensed Business Number 2913

TASK CODE:	DRAWN BY:	CHKED BY:	CAD FILE:	PROJECT NO:	SHEET	DRAWING INDEX NO:	REV:
220	JWB	RRC	215613140v-sk0001	177310771	2 OF 2	A215613140v-sk0001	

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that **WEST VILLAGES IMPROVEMENT DISTRICT,** a local unit of special purpose government organized and existing under Chapter 189, *Florida Statutes*, whose mailing address is 2501-A Burns Road, Palm Beach Gardens, Florida 33410 (the "**Seller**") paid by the **CITY OF NORTH PORT, FLORIDA**, a political subdivision of the State of Florida, whose address is 4790 City Hall Boulevard, North Port, Florida 34286 (the "**City**"), for good and valuable consideration, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer, and deliver unto the City, its successors and assigns, the following described property, assets and rights, to-wit:

1. The infrastructure and improvements more particularly described in **Exhibit A,** attached hereto and made a part hereof;

all located on portions of the real property described in **Exhibit B**, attached hereto and made a part hereof, situated, lying and being in Sarasota County, Florida.

TO HAVE AND TO HOLD all of the foregoing unto the City, its successors and assigns, for its own use forever, free and clear and discharged of and from any and all obligations, claims, or liens.

AND the Seller does hereby covenant to and with the City, its successors, and assigns, that it is the lawful owner of the above-described personal property and assets; that said personal property and assets are free from all liens and encumbrances; that Seller has good right to sell said personal property and assets; that all contractors, subcontractors, and materialmen furnishing labor or materials relative to the construction of the personal property and assets have been paid in full; and that Seller will warrant and defend the sale of its said personal property and assets hereby made, unto the City, its successors, and assigns, against the lawful claims and demands of all persons whosoever.

IN WITNESS WHEREOF, the Seller has caused this instrument to be executed in its name this ____ day of _____, 2020.

Signed, sealed and delivered in the presence of:

Witness:

Name: Steven C. Lewis

Witness:

Name: TARA SALL

WEST VILLAGES IMPROVEMENT DISTRICT a local unit of special government established and existing pursuant to Ch. 189, Florida Statutes

John Luczynski
Chairman, Board of Supervisors

STATE OF FLORIDA

COUNTY OF Sarasota

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 10th day of February, 2020, by John Luczynski as Chairman of the Board of Supervisors of the West Villages Improvement District. He is personally known to me or has produced _____ as identification.

Notary Public
Name: Michele Y. Lambdin
State of Florida at Large
Commission Expires: 3/25/2022

(NOTARY SEAL)

EXHIBIT A

ITEMIZED BILL OF SALE

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
GENERAL CONDITIONS				
GC.01	Mobilization, Bond, Insurance & License	1	LS	$ 1,588,000.00
GC.02	Overhead ($65,000/mnth * 22 months) Add $19,860 for Temp Power per Owner CO #2	1	LS	$ 1,449,860.00
GC.03	Owner Training	1	LS	$ 37,000.00
GC.04	O&M Manuals	1	LS	$ 20,000.00
GC.05	As-Builts	1	LS	$ 5,000.00
GC.06	Demobilization	1	LS	$ 65,000.00
ALLOWANCES & CONTINGENCIES				
A.01	CMAR Contingency	1	LS	$ 653,625.93
A.02	Allowances	1	LS	$ 465,000.00
CHANGE ORDERS				
C02-01	Rock Screening	446	$ 484.71	$ 216,180.66
C02-02	Rock Breaking	4	$ 753.67	$ 3,014.68
C02-03	Mobilization for Screening & Breaking	1	LS	$ 1,285.70
C02-04	Subsurface Rock Exploration	1	LS	$ 7,643.00
C02-05	Purchase Screened Rock	326	$(200.00)	$ (65,200.00)
C02-06	Import Fill from Manasota Ranch Lands	1	LS	$ 820.24
C02-07	Import Fill from Cemex	3120.26	$ 17.19	$ 53,637.27
CO3-01	Civil Changes - Pavement, Base, and Fence	1	LS	$ (407.00)
CO3-02	Add Electrical Stands for Monitoring Well	1	LS	$ 3,582.00
CO3-03	Modify Influent Flow Meter Piping	1	LS	$ 72,444.00
CO3-04	Modify Piping at DIW	1	LS	$ (2,944.00)
CO4-01	Add Masonry Supports @ Metal Buildings	1	LS	$ 49,468.00
CO4-02	Modify Foundations & Add Stucco @ Metal Bldg's	1	LS	$ 51,417.00
CO5-01	Modify Driveway Connection @ US-41 per FDOT	1	LS	$ 12,991.52
CO6-01	Modify RAS/WAS Weir El and Add 2 Level Instruments	1	LS	$ 48,819.00
DELIVERIES				
D.05.1000	Deliver Pre-Eng. Metal Buildings	1	LS	$ 121,000.00
D.13.3100	Deliver Field Instruments Deduct $29,351 per Owner CO #2	1	LS	$ 328,649.00
A.13.3150	Control System Submittals	1	LS	$ 151,932.00
D.13.3150	Deliver I&C Materials Deduct $17,267 per Owner CO #2	1	LS	$ 457,733.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
D.16.5000	Deliver Lighting Devices Deduct $35,000 per Owner CO #2	1	LS	$ 370,000.00
03 - SITEWORK				
03.02.0000	Survey & Layout	1	LS	$ 124,000.00
03.02.1000	Install Erosion Control	1	LS	$ 99,000.00
03.02.1010	Install Construction Entrance	1	LS	$ 105,000.00
03.02.3000	Clear & Grub	1	LS	$ 148,000.00
03.02.3010	Excavate Ponds	1	LS	$ 335,000.00
03.02.3030	Site Backfill	1	LS	$ 101,000.00
03.02.3060	Temp. Access Road	1	LS	$ 59,000.00
03.02.3080	Fine Grade Site	1	LS	$ 20,000.00
03.02.7000	Install Asphalt Paving	1	LS	$ 350,000.00
03.02.9500	Install Sod @ Ponds and Slopes	1	LS	$ 46,000.00
03.02.9501	Install Final Seeding & Sod	1	LS	$ 85,000.00
03.02.9502	Install Landscaping	1	LS	$ 65,000.00
03.02.9512	Install Chain Link Fence & Gate	1	LS	$ 153,000.00
03.03.3000	F/P Sidewalks	1	LS	$ 26,000.00
03.05.5000	Install Bollards	1	LS	$ 25,000.00
04 - YARD PIPING				
04.15.2101	Install 12" Influent FM	1	LS	$ 422,000.00
04.15.2103	Install 8" Water Main	1	LS	$ 243,000.00
04.15.2104	Install 30" ML from Headworks to MLE Basins	1	LS	$ 133,000.00
04.15.2105	Install 24" ML from MLE Basins to Clarifiers	1	LS	$ 186,000.00
04.15.2106	Install 24" SE from Clarifiers to Filters	1	LS	$ 76,000.00
04.15.2109	Install 18" EFF from CCC to DIW	1	LS	$ 36,000.00
04.15.2110	Install 18" REJ from DIW to Reject Tank	1	LS	$ 46,000.00
04.15.2111	Install 18" EFF from Reuse Meter to Offsite	1	LS	$ 20,000.00
04.15.2112	Install 6" REJ from Reject Tank to Filters	1	LS	$ 44,000.00
04.15.2113	Install 6" W3 Loop around Site	1	LS	$ 170,000.00
04.15.2114	Install 6" FBW from Filters to Headworks	1	LS	$ 37,000.00
04.15.2115	Install 1.5" CL2 Lines	1	LS	$ 32,000.00
04.15.2117	Install 12" RAS/WAS from Clarifiers to WW/PS	1	LS	$ 200,000.00
04.15.2118	Install 4" SC from Scum PS to Digesters	1	LS	$ 41,000.00
04.15.2119	Install 6" Drain from MLE Basins to DPS	1	LS	$ 65,000.00
04.15.2120	Install 12" PA from Blowers to MLE Basins	1	LS	$ 153,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
04.15.2121	Install 12" RAS from RAS PS to MLE Basins	1	LS	$ 130,000.00
04.15.2122	Install 6" WAS from WAS PS to Digesters	1	LS	$ 18,000.00
04.15.2123	Install 4" TWAS from Digester to Solids Bldg.	1	LS	$ 22,000.00
04.15.2125	Install 16" RAS/WAS from Wetwell to PS	1	LS	$ 47,000.00
04.15.2126	Install 24" FE from Filters to CCC	1	LS	$ 39,000.00
04.15.2200	Install Sanitary Sewers	1	LS	$ 116,000.00
04.15.2300	Install Storm Drains	1	LS	$ 397,000.00
05 - SITE ELECTRICAL				
05.16.4020	Install DB from FPL Pole to XFMR-1&2	1	LS	$ 240,000.00
05.16.4023	Install DB from ELEC BLDG 1 Deduct $75,00 per Owner CO #2	1	LS	$ 1,410,000.00
05.16.4027	Install DB from ELEC BLDG 2 Deduct $57,310 per Owner CO #2	1	LS	$ 1,091,690.00
05.16.4029	Install DB for Site Lighting	1	LS	$ 66,000.00
05.16.5000	Install Site Light Poles & Lights	1	LS	$ 112,000.00
05.16.8000	Install Surveillance Cameras	1	LS	$ 26,000.00
010 - HEADWORKS				
010.02.3000	Prep. Subgrade @ Headworks	1	LS	$ 37,000.00
010.03.3000	F/P Concrete @ Headworks	1	LS	$ 384,000.00
010.03.3100	Leak Test Headworks	1	LS	$ 3,000.00
010.05.5000	Install Misc. Metals @ Headworks	1	LS	$ 38,000.00
010.08.1000	Install Man Doors @ Headworks	1	LS	$ 3,000.00
010.08.3000	Install OH Door @ Headworks	1	LS	$ 6,000.00
010.09.9000	Paint Concrete Interior @ Headworks	1	LS	$ 7,000.00
010.09.9001	Paint Channels @ Headworks	1	LS	$ 46,000.00
010.09.9002	Paint & Label Piping @ Headworks	1	LS	$ 9,000.00
010.11.2000	Install Headworks Equipment	1	LS	$ 95,000.00
010.13.3100	Install Field Instruments @ Headworks	1	LS	$ 2,000.00
010.15.2000	Install Process Piping @ Headworks	1	LS	$ 217,000.00
010.15.2100	Install In/Under Pipe @ Headworks	1	LS	$ 129,000.00
010.16.1080	Install Elec Panels & Devices @ Headworks	1	LS	$ 11,000.00
010.16.1100	Rough-in Electrical @ Headworks	1	LS	$ 126,000.00
010.16.1200	Pull & Terminate Wire @ Headworks	1	LS	$ 16,000.00
010.16.4500	Install Building Ground Loop @ Headworks	1	LS	$ 16,000.00
010.16.5000	Install Light Fixtures @ Headworks	1	LS	$ 17,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
010.90.1000	Startup & Test Headworks	1	LS	$ 4,000.00
ODP	HEADWORKS - ODOR CONTROL SYSTEM	1	EA	$ 149,192.00
ODP	HEADWORKS - GRIT REMOVAL SYSTEM	1	EA	$ 334,815.00
ODP	HEADWORKS - GRIT CUP	1	EA	INCL
ODP	HEADWORKS - SPIRAL SNAIL	1	EA	INCL
ODP	HEADWORKS - MOTOR	1	EA	INCL
ODP	HEADWORKS - MECHANICAL FINE SCREEN & WASHER	1	EA	$ 160,950.00
ODP	HEADWORKS - WASH PRESS	1	EA	INCL
ODP	HEADWORKS - MOTOR	1	EA	INCL
ODP	HEADWORKS - HEADWORKS GATE #1	1	EA	$ 8,037.50
ODP	HEADWORKS - HEADWORKS GATE #2	1	EA	$ 8,037.50
ODP	HEADWORKS - HEADWORKS GATE #3	1	EA	$ 8,037.50
ODP	HEADWORKS - HEADWORKS GATE #4	1	EA	$ 8,037.50
ODP	HEADWORKS - HEADWORKS GATE #5	1	EA	$ 8,037.50
ODP	HEADWORKS - HEADWORKS GATE #6	1	EA	$ 8,037.50
020 - MLE TANKS				
020.02.3000	Prep. Subgrade @ MLE Tanks	1	LS	$ 216,000.00
020.03.3000	F/P Concrete @ MLE Tanks Deduct $55,485 per Owner CO #2	1	LS	$ 2,121,515.00
020.03.3100	Leak Test MLE Basins	1	LS	$ 6,000.00
020.05.5000	Install Misc. Metals @ MLE Basins	1	LS	$ 171,000.00
020.09.9000	Paint Concrete @ MLE Basins	1	LS	$ 20,000.00
020.09.9001	Paint & Label Piping @ MLE Basins	1	LS	$ 10,000.00
020.11.5000	Install MLE Basin Equipment	1	LS	$ 141,000.00
020.13.3100	Install Field Instruments @ MLE Basins	1	LS	$ 4,000.00
020.15.2000	Install Process Piping @ MLE Basins	1	LS	$ 210,000.00
020.15.2100	Install In/Under Pipe @ MLE	1	LS	$ 273,000.00
020.16.1080	Install Elec Panels & Devices @ MLE Basins	1	LS	$ 7,000.00
020.16.1100	Rough-in Electrical @ MLE Basins	1	LS	$ 153,000.00
020.16.1200	Pull & Terminate Wire @ MLE Basins	1	LS	$ 14,000.00
020.16.4500	Install Building Ground Loop @ MLE Basins	1	LS	$ 8,000.00
020.16.5000	Install Light Fixtures @ MLE Basins	1	LS	$ 35,000.00
020.90.1000	Startup & Test MLE Basins	1	LS	$ 5,000.00
ODP	MLE - 6" - IRIS VALVE #1 + ACTUATOR	1	EA	$ 12,968.00
ODP	MLE - 6" - IRIS VALVE #2 + ACTUATOR	1	EA	$ 12,968.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
ODP	MLE BASIN - ANOXIC MIXER (Large)(East)	1	EA	$ 50,537.50
ODP	MLE BASIN - ANOXIC MIXER (Large)(West)	1	EA	$ 50,537.50
ODP	MLE BASIN - ANOXIC MIXER (Small)(East)	1	EA	$ 50,537.50
ODP	MLE BASIN - ANOXIC MIXER (Small)(West)	1	EA	$ 50,537.50
ODP	MLE BASIN - MLE GATE #1	1	EA	$ 8,037.50
ODP	MLE BASIN - MLE GATE #2	1	EA	$ 8,037.50
021 - IRML PUMP STATION				
021.02.3000	Prep. Subgrade @ IRML PS	1	LS	$ 19,000.00
021.03.3000	F/P IRML PS Slab	1	LS	$ 35,000.00
021.09.9000	Paint & Label Piping @ IRML PS	1	LS	$ 7,000.00
021.11.5030	Install IRML Pumps	1	LS	$ 15,000.00
021.13.3100	Install Field Instruments @ IRML PS	1	LS	$ 3,000.00
021.15.2000	Install Process Piping @ IRML PS	1	LS	$ 153,000.00
021.16.1080	Install Elec Panels & Devices @ IRML PS	1	LS	$ 2,000.00
021.16.1100	Rough-in Electrical @ IRML PS	1	LS	$ 21,000.00
021.16.1200	Pull & Terminate Wire @ IRML PS	1	LS	$ 3,000.00
021.16.5000	Install Light Fixtures @ IRML PS	1	LS	$ 10,000.00
ODP	IRML P.S - IRML PUMP #1	1	EA	$ 22,078.50
ODP	IRML P.S - IRML PUMP #2	1	EA	$ 22,078.50
ODP	IRML P.S - IRML PUMP #3	1	EA	$ 22,078.50
030 - DIGESTERS				
030.02.3000	Prep. Subgrade @ Digesters	1	LS	$ 99,000.00
030.03.3000	F/P Concrete @ Digesters Deduct $17,926 per Owner CO #2	1	LS	$ 661,074.00
030.03.3100	Leak Test Digester	1	LS	$ 3,000.00
030.05.5000	Install Misc. Metals @ Digester	1	LS	$ 114,000.00
030.09.9000	Paint Concrete @ Digester	1	LS	$ 77,000.00
030.09.9001	Paint & Label Piping @ Digester	1	LS	$ 2,000.00
030.11.5500	Install Digester Equipment	1	LS	$ 30,000.00
030.13.3100	Install Field Instruments @ Digester	1	LS	$ 2,000.00
030.15.2000	Install Process Piping @ Digester	1	LS	$ 118,000.00
030.15.2100	Install In/Under Pipe @ Digester	1	LS	$ 18,000.00
030.16.1080	Install Elec Panels & Devices @ Digester	1	LS	$ 4,000.00
030.16.1100	Rough-in Electrical @ Digester	1	LS	$ 84,000.00
030.16.1200	Pull & Terminate Wire @ Digester	1	LS	$ 6,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
030.16.4500	Install Building Ground Loop @ Digester	1	LS	$ 9,000.00
030.16.5000	Install Light Fixtures @ Digester	1	LS	$ 25,000.00
030.90.1000	Startup & Test Digesters	1	LS	$ 4,000.00
ODP	DIGESTOR - POSITIVE DISPLACEMENT BLOWER #1	1	EA	$ 90,286.00
ODP	DIGESTOR - POSITIVE DISPLACEMENT BLOWER #2	1	EA	$ 90,286.00
ODP	DIGESTOR - 8" - DECANTING SYSTEM	1	EA	$ 28,900.00
041 - CLARIFIER #1				
041.02.3000	Prep. Subgrade @ Clarifier #1	1	LS	$ 293,000.00
041.03.3000	F/P Clarifier #1 Slab	1	LS	$ 238,000.00
041.03.3001	Install Prestressed Walls @ SC #1	1	LS	$ 228,000.00
041.03.3002	F/P Launder Trough @ SC #1	1	LS	$ 82,000.00
041.03.3003	F/P Exterior Walkway @ SC #1	1	LS	$ 51,000.00
041.03.3007	Grout Clarifier #1	1	LS	$ 16,000.00
041.03.3100	Leak Test Clarifier #1	1	LS	$ 3,000.00
041.05.5000	Install Misc. Metals @ SC #1	1	LS	$ 62,000.00
041.09.9000	Paint Interior Concrete @ SC #1	1	LS	$ 32,000.00
041.09.9002	Paint & Label Piping @ SC #1	1	LS	$ 1,000.00
041.11.4000	Install Clarifier #1 Equipment	1	LS	$ 45,000.00
041.15.2000	Install Process Piping @ SC #1	1	LS	$ 13,000.00
041.15.2100	Install In/Under Pipe @ SC #1	1	LS	$ 89,000.00
041.16.1100	Rough-in Electrical @ SC #1	1	LS	$ 5,000.00
041.16.1200	Pull & Terminate Wire @ SC #1	1	LS	$ 4,000.00
041.16.5000	Install Light Fixtures @ SC #1	1	LS	$ 6,000.00
041.90.1000	Startup & Test Clarifier #1	1	LS	$ 3,000.00
ODP	CLARIFIER - SECONDARY CLARIFIER #1	1	EA	$ 115,758.45
042 - CLARIFIER #2				
042.02.3000	Prep. Subgrade @ Clarifier #2	1	LS	$ 293,000.00
042.03.3000	F/P Clarifier #2 Slab	1	LS	$ 238,000.00
042.03.3001	Install Prestressed Walls @ SC #2	1	LS	$ 228,000.00
042.03.3002	F/P Launder Trough @ SC #2	1	LS	$ 82,000.00
042.03.3003	F/P Exterior Walkway @ SC #2	1	LS	$ 51,000.00
042.03.3007	Grout Clarifier #2	1	LS	$ 16,000.00
042.03.3100	Leak Test Clarifer #2	1	LS	$ 3,000.00
042.05.5000	Install Misc. Metals @ SC #2	1	LS	$ 62,000.00
042.09.9000	Paint Interior Concrete @ SC #2	1	LS	$ 32,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
042.09.9002	Paint & Label Piping @ SC #2	1	LS	$ 1,000.00
042.11.4000	Install Clarifier #2 Equipment	1	LS	$ 45,000.00
042.15.2000	Install Process Piping @ SC #2	1	LS	$ 13,000.00
042.15.2100	Install In/Under Pipe @ SC #2	1	LS	$ 89,000.00
042.16.1100	Rough-in Electrical @ SC #2	1	LS	$ 5,000.00
042.16.1200	Pull & Terminate Wire @ SC #2	1	LS	$ 4,000.00
042.16.5000	Install Light Fixtures @ SC #2	1	LS	$ 6,000.00
042.90.1000	Startup & Test Clarifier #2	1	LS	$ 3,000.00
ODP	CLARIFIER - SECONDARY CLARIFIER #2	1	EA	$ 115,758.45
043 - SCUM PUMP STATION				
043.02.3000	Prep. Subgrade @ Scum PS	1	LS	$ 9,000.00
043.02.3002	Set Precast Manhole @ Scum PS	1	LS	$ 33,000.00
043.03.3000	F/P Concrete @ Scum PS	1	LS	$ 2,000.00
043.05.5000	Install Misc. Metals @ Scum PS	1	LS	$ 57,000.00
043.09.9000	Paint Concrete @ Scum PS	1	LS	$ 4,000.00
043.09.9001	Paint & Label Piping @ Scum PS	1	LS	$ 2,000.00
043.11.4020	Install Submersible Pumps & Guides @ Scum PS	1	LS	$ 21,000.00
043.13.3100	Install Field Instruments @ Scum PS	1	LS	$ 2,000.00
043.15.2000	Install Process Piping @ Scum PS	1	LS	$ 47,000.00
043.16.1080	Install Elec Panels & Devices @ Scum PS	1	LS	$ 3,000.00
043.16.1100	Rough-in Electrical @ Scum PS	1	LS	$ 32,000.00
043.16.1200	Pull & Terminate Wire @ Scum PS	1	LS	$ 6,000.00
043.16.5000	Install Light Fixtures @ Scum PS	1	LS	$ 6,000.00
043.90.1000	Startup & Test Scum PS	1	LS	$ 3,000.00
ODP	SCUM PUMP STATION - SCUM PUMP #1	1	EA	$ 24,059.00
ODP	SCUM PUMP STATION - SCUM PUMP #2	1	EA	$ 24,059.00
050 - RAS/WAS WETWELL				
050.02.3001	Prep. Subgrade @ RAS/WAS Wetwell	1	LS	$ 12,000.00
050.03.3000	F/P Concrete @ Wetwell	1	LS	$ 214,000.00
050.03.3100	Leak Test RAS/WAS Wetwell	1	LS	$ 3,000.00
050.05.5000	Install Misc. Metals @ Wetwell	1	LS	$ 90,000.00
050.09.9001	Paint & Label Piping @ Wetwell	1	LS	$ 1,000.00
050.11.8000	Install Weir Gates @ Wetwell	1	LS	$ 8,000.00
050.15.2100	Install In/Under Pipe @ Wetwell	1	LS	$ 47,000.00
051 - DRAIN PUMP STATION				

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
051.02.3000	Prep. Subgrade @ Drain PS	1	LS	$ 6,000.00
051.03.3000	F/P Concrete @ Drain PS	1	LS	$ 13,000.00
051.09.9000	Paint & Label Piping @ Drain PS	1	LS	$ 1,000.00
051.11.4010	Install Drain Pumps	1	LS	$ 9,000.00
051.15.2000	Install Process Piping @ Drain PS	1	LS	$ 64,000.00
051.16.1080	Install Elec Panels & Devices @ Drain PS	1	LS	$ 2,000.00
051.16.1100	Rough-in Electrical @ Drain PS	1	LS	$ 15,000.00
051.16.1200	Pull & Terminate Wire @ Drain PS	1	LS	$ 6,000.00
051.16.5000	Install Light Fixtures @ Drain PS	1	LS	$ 6,000.00
051.90.1000	Startup & Test Drain PS	1	LS	$ 3,000.00
ODP	MLE DRAIN P.S - MLE DRAIN PUMP #1	1	EA	$ 24,059.00
ODP	MLE DRAIN P.S - MLE DRAIN PUMP #2	1	EA	$ 24,059.00
052 - RAS/WAS PUMP STATION				
052.02.3000	Prep. Subgrade @ RAS/WAS PS	1	LS	$ 46,000.00
052.03.3000	F/P Concrete @ RAS/WAS PS	1	LS	$ 33,000.00
052.09.9001	Paint & Label Piping @ RAS/WAS PS	1	LS	$ 7,000.00
052.11.4010	Install RAS/WAS Pumps	1	LS	$ 20,000.00
052.13.3100	Install Field Instruments @ RAS/WAS PS	1	LS	$ 4,000.00
052.15.2000	Install Process Piping @ RAS/WAS PS	1	LS	$ 157,000.00
052.16.1080	Install Elec Panels & Devices @ RAS/WAS PS	1	LS	$ 4,000.00
052.16.1100	Rough-in Electrical @ RAS/WAS PS	1	LS	$ 48,000.00
052.16.1200	Pull & Terminate Wire @ RAS/WAS PS	1	LS	$ 3,000.00
052.16.5000	Install Light Fixtures @ RAS/WAS PS	1	LS	$ 22,000.00
052.90.1000	Startup & Test RAS/WAS PS	1	LS	$ 4,000.00
ODP	RAS/WAS P.S - RAS PUMP #1	1	EA	$ 24,059.00
ODP	RAS/WAS P.S - RAS PUMP #2	1	EA	$ 24,059.00
ODP	RAS/WAS P.S - RAS PUMP #3	1	EA	$ 24,059.00
ODP	RAS/WAS P.S - WAS PUMP #1	1	EA	$ 24,059.00
ODP	RAS/WAS P.S - WAS PUMP #2	1	EA	$ 24,059.00
060 - FILTERS				
060.02.3000	Prep. Subgrade @ Filters	1	LS	$ 83,000.00
060.03.3001	F/P Concrete @ Filters Deduct $19,450 per Owner CO #2	1	LS	$ 1,281,550.00
060.03.3100	Leak Test Filters	1	LS	$ 6,000.00
060.05.5000	Install Misc. Metals @ Filters	1	LS	$ 183,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
060.09.9000	Paint Concrete @ Mudwell	1	LS	$ 12,000.00
060.09.9001	Paint & Label Piping @ Filters	1	LS	$ 17,000.00
060.11.6000	Install Filter Equipment	1	LS	$ 119,000.00
060.13.3100	Install Field Instruments @ Filters	1	LS	$ 5,000.00
060.15.2000	Install Process Piping @ Filters Add $1,215 per Owner CO #2	1	LS	$ 502,215.00
060.15.2100	Install In/Under Pipe @ Filters	1	LS	$ 368,000.00
060.16.1080	Install Elec Panels & Devices @ Filters	1	LS	$ 8,000.00
060.16.1100	Rough-in Electrical @ Filters	1	LS	$ 216,000.00
060.16.1200	Pull & Terminate Wire @ Filters	1	LS	$ 30,000.00
060.16.5000	Install Light Fixtures @ Filters	1	LS	$ 24,000.00
060.90.1000	Startup & Test Filters	1	LS	$ 4,000.00
ODP	FILTERS PACKAGE	1	LS	$ 970,342.00
ODP	FILTERS - FILTER CONTROL PANEL PCP-4A	1	EA	INCL
ODP	FILTERS - FILTER CONTROL PANEL PCP-4B	1	EA	INCL
ODP	FILTERS - FILTER BACKWASH PUMP #1	1	EA	INCL
ODP	FILTERS - FILTER BACKWASH PUMP #2	1	EA	INCL
ODP	FILTERS - FILTER BLOWER #1	1	EA	INCL
ODP	FILTERS - FILTER BLOWER #2	1	EA	INCL
ODP	FILTERS - 10" - FILTER AIR VALVE #2 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 10" - FILTER AIR VALVE #1 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 14" - FILTER BACKWASH VALVE #1 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 14" - FILTER BACKWASH VALVE #2 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 16" - FILTER INFLUENT VALVE #1 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 16" - FILTER INFLUENT VALVE #2 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 18" - FILTER EFFLUENT VALVE #1 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 18" - FILTER EFFLUENT VALVE #2 + ACTUATOR	1	EA	INCL
ODP	FILTERS - 20" - FILTER DIRTY BACKWASH VALVE #1 + ACTUA	1	EA	INCL
ODP	FILTERS - 20" - FILTER DIRTY BACKWASH VALVE #2 + ACTUA	1	EA	INCL
ODP	FILTERS - 6" - FILTER AIR UNLOADING VALVE #1 + ACTUATO	1	EA	INCL
ODP	FILTERS - FILTER FEED PUMP #1 (JOCKEY PUMP)	1	EA	$ 22,078.50
ODP	FILTERS - FILTER FEED PUMP #2	1	EA	$ 22,078.50
ODP	FILTERS - FILTER FEED PUMP #3	1	EA	$ 22,078.50
ODP	FILTERS - FILTER MUDWELL PUMP #1	1	EA	$ 22,078.50
ODP	FILTERS - FILTER MUDWELL PUMP #2	1	EA	$ 22,078.50

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
070 - CHLORINE CONTACT / EFFLUENT PS				
070.02.3000	Prep. Subgrade @ EPS/CCC	1	LS	$ 255,000.00
070.03.3000	F/P Concrete @ EPS/CCC	1	LS	$ 655,000.00
070.03.3100	Leak Test CCC & EPS	1	LS	$ 4,000.00
070.05.5000	Install Misc. Metals @ CCC/EPS	1	LS	$ 62,000.00
070.09.9000	Paint Concrete @ CCC/EPS	1	LS	$ 70,000.00
070.09.9001	Paint & Label Piping @ CCC/EPS	1	LS	$ 8,000.00
070.11.6010	Install EPS Equipment	1	LS	$ 23,000.00
070.13.3100	Install Field Instruments @ EPS	1	LS	$ 5,000.00
070.15.2000	Install Process Piping @ CCC/EPS	1	LS	$ 98,000.00
070.15.2100	Install In/Under Pipe @ CCC	1	LS	$ 31,000.00
070.16.1080	Install Elec Panels & Devices @ CCC/EPS	1	LS	$ 7,000.00
070.16.1101	Rough-in Electrical @ CCC/EPS	1	LS	$ 104,000.00
070.16.1200	Pull & Terminate Wire @ CCC/EPS	1	LS	$ 90,000.00
070.16.5000	Install Light Fixtures @ CCC/EPS	1	LS	$ 6,000.00
070.90.1000	Startup & Test CCC/EPS	1	LS	$ 4,000.00
ODP	CHLORINE CONTACT - CHLORINE CONTACT GATE #1	1	EA	$ 8,037.50
ODP	CHLORINE CONTACT - CHLORINE CONTACT GATE #2	1	EA	$ 8,037.50
ODP	EFFLUENT P.S - EFFLUENT TRANSFER PUMP #1	1	EA	$ 51,250.00
ODP	EFFLUENT P.S - EFFLUENT TRANSFER PUMP #2	1	EA	$ 51,250.00
ODP	EFFLUENT P.S - PLANT WATER PUMP #1	1	EA	$ 51,250.00
ODP	EFFLUENT P.S - PLANT WATER PUMP #2	1	EA	$ 51,250.00
080 - DEEP INJECTION WELL				
080.02.3001	Prep. Subgrade @ DIW and MW's	1	LS	$ 21,000.00
080.03.3001	F/P Concrete @ DIW & Monitoring Wells	1	LS	$ 32,000.00
080.09.9000	Paint & Label Piping @ DIW	1	LS	$ 2,000.00
080.13.3100	Install Field Instruments @ DIW/MW's	1	LS	$ 4,000.00
080.15.2000	Install Process Piping @ DIW/MW's	1	LS	$ 265,000.00
080.16.1080	Install Elec Panels & Devices @ DIW/MW's	1	LS	$ 6,000.00
080.16.1100	Rough-in Electrical @ DIW/MW's	1	LS	$ 40,000.00
080.16.1200	Pull & Terminate Wire @ DIW/MW's	1	LS	$ 2,000.00
080.16.5000	Install Light Fixtures @ DIW/MW's	1	LS	$ 41,000.00
080.90.1000	Startup & Test DIW Instrumentation	1	LS	$ 3,000.00
090 - REJECT TANK				
090.02.3000	Prep. Subgrade @ Reject Tank	1	LS	$ 198,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
090.03.3001	F/P Reject Tank Slab	1	LS	$ 263,000.00
090.03.3002	Install Prestressed Walls @ Reject Tank	1	LS	$ 564,000.00
090.03.3100	Leak Test Reject Tank	1	LS	$ 3,000.00
090.09.9000	Paint Interior Concrete @ Reject Tank	1	LS	$ 39,000.00
090.09.9001	Paint & Label Piping @ Reject Tank	1	LS	$ 6,000.00
090.13.3100	Install Field Instruments @ Reject Tank	1	LS	$ 2,000.00
090.15.2000	Install Process Piping @ Reject Tank	1	LS	$ 17,000.00
090.15.2100	Install In/Under Pipe @ Reject Tank	1	LS	$ 51,000.00
090.16.1080	Install Elec Panels & Devices @ Reject Tank	1	LS	$ 4,000.00
090.16.1100	Rough-in Electrical @ Reject Tank	1	LS	$ 19,000.00
090.16.1200	Pull & Terminate Wire @ Reject Tank	1	LS	$ 2,000.00
091 - REJECT PUMP STATION				
091.02.3000	Prep. Subgrade @ Reject PS	1	LS	$ 8,000.00
091.03.3000	F/P Concrete @ Reject PS	1	LS	$ 21,000.00
091.09.9000	Paint & Label Piping @ Reject PS	1	LS	$ 6,000.00
091.11.5030	Install Reject Pumps	1	LS	$ 10,000.00
091.13.3100	Install Field Instruments @ Reject PS	1	LS	$ 2,000.00
091.15.2000	Install Process Piping @ Reject PS	1	LS	$ 50,000.00
091.16.1080	Install Elec Panels & Devices @ Reject PS	1	LS	$ 5,000.00
091.16.1100	Rough-in Electrical @ Reject PS	1	LS	$ 13,000.00
091.16.1200	Pull & Terminate Wire @ Reject PS	1	LS	$ 2,000.00
091.16.5000	Install Light Fixtures @ Reject PS	1	LS	$ 6,000.00
091.90.1000	Startup & Test Reject PS	1	LS	$ 3,000.00
ODP	REJECT P.S - REJECT PUMP #1	1	EA	$ 22,078.50
ODP	REJECT P.S - REJECT PUMP #2	1	EA	$ 22,078.50
100 - CONTROL BUILDING				
100.02.3000	Prep. Subgrade @ Control Bldg.	1	LS	$ 5,000.00
100.03.3000	F/P Control Bldg. Slab	1	LS	$ 90,000.00
100.04.1000	Install Masonry Walls New Item added per Owner CO #2	1	LS	$ 78,795.00
100.05.1000	Install Metal Building @ Control Bldg.	1	LS	$ 84,000.00
100.06.4000	Install Drywall Framing	1	LS	$ 27,000.00
100.07.4001	Install Thermal & Moisture Protection	1	LS	$ 12,000.00
100.08.1000	Install Doors & Windows	1	LS	$ 79,000.00
100.09.2000	Install Building Finishes	1	LS	$ 149,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
100.10.5000	Install Building Specialties	1	LS	$ 35,000.00
100.13.1201	Pull & Terminate Comm. Systems @ Control Bldg.	1	LS	$ 13,000.00
100.13.3600	Install Network Comm. Equipment @ Control Bldg.	1	LS	$ 41,000.00
100.15.4000	Install Plumbing @ Control Bldg.	1	LS	$ 80,000.00
100.15.7000	Install HVAC @ Control Bldg.	1	LS	$ 123,000.00
100.16.1080	Install Elec Panels & Devices @ Control Bldg.	1	LS	$ 58,000.00
100.16.1100	Rough-in Electrical @ Control Bldg.	1	LS	$ 68,000.00
100.16.1200	Pull & Terminate Wire @ Control Bldg.	1	LS	$ 19,000.00
100.16.4500	Install Building Ground Loop @ Control Bldg.	1	LS	$ 8,000.00
100.16.5000	Install Light Fixtures @ Control Bldg.	1	LS	$ 18,000.00
100.16.6700	Install Lightning Protection @ Control Bldg.	1	LS	$ 6,000.00
100.16.7210	Install Fire Alarm System @ Control Bldg.	1	LS	$ 41,000.00
100.16.8000	Install Surveillance System @ Control Bldg.	1	LS	$ 41,000.00
110 - MLE BLOWER BUILDING				
110.02.3000	Prep. Subgrade @ MLE Blower Bldg.	1	LS	$ 2,000.00
110.03.3000	F/P Blower Building Slab Add $12,191 per Owner CO #2	1	LS	$ 54,191.00
110.03.3001	F/P Generator #1 Pad	1	LS	$ 24,000.00
110.03.3003	F/P Blower & Elec. Equipment Pads	1	LS	$ 10,000.00
110.04.2000	Install Masonry @ Blower Bldg. Add $43,535 per Owner CO #2	1	LS	$ 56,535.00
110.05.1000	Install Metal Building @ Blower Bldg.	1	LS	$ 33,000.00
110.08.1000	Install Doors	1	LS	$ 8,000.00
110.09.5000	Install Building Finishes	1	LS	$ 6,000.00
110.11.5010	Install MLE Blowers & Accessories	1	LS	$ 23,000.00
110.15.2000	Instal Process Piping @ MLE Blowers	1	LS	$ 30,000.00
110.15.7000	Install HVAC @ Blower Bldg.	1	LS	$ 8,000.00
110.16.1100	Rough-in Electrical @ Blower Bldg.	1	LS	$ 205,000.00
110.16.1200	Pull & Terminate Wire @ Blower Bldg.	1	LS	$ 175,000.00
110.16.2160	Install Diesel Generator @ Blower Bldg.	1	LS	$ 58,000.00
110.16.3700	Install Electrical Gear @ Blower Bldg.	1	LS	$ 47,000.00
110.16.4500	Install Building Ground Loop @ Blower Bldg.	1	LS	$ 14,000.00
110.16.5000	Install Light Fixtures @ Blower Bldg.	1	LS	$ 16,000.00
110.16.6700	Install Lightning Protection @ Blower Bldg.	1	LS	$ 7,000.00
110.90.1000	Startup & Test MLE Blowers	1	LS	$ 3,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
110.90.1001	Startup & Test Diesel Generator #1	1	LS	$ 9,000.00
110.90.1100	Startup & Test Elec. Gear @ Blower Bldg.	1	LS	$ 33,000.00
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (MCC #1)	1	EA	$ 522,860.50
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (MCC #2)	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (SWBD #1)	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (SWBD #2)	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (MB #1)	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (MB #2)	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ATS #1	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ATS #2	1	EA	INCL
ODP	ELECTRICAL ROOM #1 - ELECTRICAL GEAR (VFDS)	1	EA	INCL
ODP	GENERATOR #1 - Diesel Generator	1	EA	$ 310,500.00
ODP	MLE BLOWER BUILDING - HIGH SPEED TURBO BLOWER #1	1	EA	$ 117,966.67
ODP	MLE BLOWER BUILDING - HIGH SPEED TURBO BLOWER #2	1	EA	$ 117,966.67
ODP	MLE BLOWER BUILDING - HIGH SPEED TURBO BLOWER #3	1	EA	$ 117,966.67
120 - CHEMICAL BUILDING				
120.02.3000	Prep. Subgrade @ Chem Bldg.	1	LS	$ 2,000.00
120.03.3000	F/P Chem Building Slab Add $12,191 per Owner CO #2	1	LS	$ 45,191.00
120.03.3001	F/P Generator #3 Pad	1	LS	$ 24,000.00
120.03.3003	F/P Chem Tank & Elec. Equipment Pads	1	LS	$ 21,000.00
120.04.2000	Install Masonry @ Chem Bldg. Add $36,120 per Owner CO #2	1	LS	$ 46,120.00
120.05.1000	Install Metal Building @ Chem Bldg.	1	LS	$ 33,000.00
120.08.1000	Install Doors	1	LS	$ 3,000.00
120.09.5000	Install Building Finishes	1	LS	$ 6,000.00
120.09.9002	Paint & Label Piping @ Chem Bldg.	1	LS	$ 5,000.00
120.11.3000	Install Chem Pumps & Tanks	1	LS	$ 42,000.00
120.15.2000	Install Process Piping @ Chem Bldg.	1	LS	$ 45,000.00
120.15.7000	Install HVAC @ Chem Bldg.	1	LS	$ 8,000.00
120.16.1100	Rough-in Electrical @ Chem Bldg.	1	LS	$ 82,000.00
120.16.1200	Pull & Terminate Wire @ Chem Bldg.	1	LS	$ 54,000.00
120.16.2160	Install Diesel Generator @ Chem Bldg.	1	LS	$ 47,000.00
120.16.3700	Install Electrical Gear @ Chem Bldg.	1	LS	$ 105,000.00
120.16.4500	Install Building Ground Loop @ Chem Bldg.	1	LS	$ 12,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
120.16.5000	Install Light Fixtures @ Chem Bldg.	1	LS	$ 16,000.00
120.16.6700	Install Lightning Protection @ Chem Bldg.	1	LS	$ 4,000.00
120.90.1000	Startup & Test Chem System	1	LS	$ 3,000.00
120.90.1001	Startup & Test Diesel Generator #3	1	LS	$ 3,000.00
120.90.1100	Startup & Test Elec. Gear @ Chem Bldg.	1	LS	$ 33,000.00
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (MCC #3)	1	EA	$ 522,860.50
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (MCC #4)	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (SWBD #3)	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (SWBD #4)	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ATS #3	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ATS #4	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (MB #3)	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (MB #4)	1	EA	INCL
ODP	ELECTRICAL ROOM #2 - ELECTRICAL GEAR (VFDS)		EA	INCL
ODP	GENERATOR #3 - Diesel Generator	1	EA	$ 310,500.00
ODP	CHEMICAL - CHEMICAL METERING SKID #1	1	EA	$ 26,750.00
ODP	CHEMICAL - CHEMICAL METERING SKID #2	1	EA	$ 26,750.00
ODP	CHEMICAL - CHEMICAL STORAGE TANK #1	1	EA	$ 21,393.50
ODP	CHEMICAL - CHEMICAL STORAGE TANK #2	1	EA	$ 21,393.50
130 - SOLIDS BUILDING				
130.02.3001	Prep. Subgrade @ Solids Bldg.	1	LS	$ 1,000.00
130.03.3002	F/P Slab @ Solids Bldg. Add $8,970 per Owner CO #2	1	LS	$ 34,970.00
130.03.3004	F/P Equipment Pads @ Solids Bldg.	1	LS	$ 7,000.00
130.05.1000	Install Metal Building @ Solids Bldg.	1	LS	$ 32,000.00
130.09.9000	Install Building Finishes	1	LS	$ 2,000.00
130.09.9002	Paint & Label Piping @ Solids Bldg.	1	LS	$ 11,000.00
130.11.7000	Install Centrifuge @ Solids Bldg.	1	LS	$ 85,000.00
130.15.2000	Install Process Piping @ Solids Bldg.	1	LS	$ 31,000.00
130.15.2100	Install In/Under Pipe @ Solids Bldg.	1	LS	$ 29,000.00
130.16.1080	Install Elec Panels & Devices @ Solids Bldg.	1	LS	$ 2,000.00
130.16.1100	Rough-in Electrical @ Solids Bldg.	1	LS	$ 10,000.00
130.16.1200	Pull & Terminate Wire @ Solids Bldg.	1	LS	$ 2,000.00
130.16.4500	Install Building Ground Loop @ Solids Bldg.	1	LS	$ 8,000.00
130.16.5000	Install Light Fixtures @ Solids Bldg.	1	LS	$ 8,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
130.16.6700	Install Lightning Protection @ Solids Bldg.	1	LS	$ 6,000.00
130.90.1000	Startup & Test Centrifuge	1	LS	$ 3,000.00
ODP	SOLIDS HANDLING - CENTRIFUGE PACKAGE	1	EA	$ 444,700.00
150 - SEPTAGE REC. STATION				
150.02.3000	Prep. Subgrade @ SRS	1	LS	$ 10,000.00
150.03.3000	F/P SRS Slab	1	LS	$ 19,000.00
150.09.9000	Paint & Label Piping @ SRS	1	LS	$ 4,000.00
150.11.0000	Install Septage Receiving Sta. Equipment Add $5,684 per Owner CO #2	1	LS	$ 29,684.00
150.16.1080	Install Elec Panels & Devices @ SRS	1	LS	$ 2,000.00
150.16.1100	Rough-in Electrical @ SRS	1	LS	$ 5,000.00
150.16.1200	Pull & Terminate Wire @ SRS	1	LS	$ 4,000.00
150.16.5000	Install Light Fixtures @ SRS	1	LS	$ 6,000.00
150.90.1000	Startup & Test Septage Rec. Sta.	1	LS	$ 3,000.00
ODP	SEPTAGE RECEIVING - SEPTAGE RECEIVING STATION	1	EA	$ 118,908.00
170 - SITE LIFT STATION				
170.02.3000	Prep. Subgrade @ Site Lift Station	1	LS	$ 16,000.00
170.02.3002	Set Site LS Manhole	1	LS	$ 61,000.00
170.03.3000	F/P Site LS Valve Pad	1	LS	$ 4,000.00
170.09.9000	Paint Concrete @ Site LS	1	LS	$ 10,000.00
170.09.9001	Paint & Label Piping @ Site LS	1	LS	$ 3,000.00
170.11.9000	Install Submersible Pumps & Guides @ Site LS	1	LS	$ 9,000.00
170.13.3100	Install Field Instruments @ Site LS	1	LS	$ 2,000.00
170.15.2000	Install Process Piping @ Site LS	1	LS	$ 47,000.00
170.16.1080	Install Elec Panels & Devices @ Site LS	1	LS	$ 2,000.00
170.16.1100	Rough-in Electrical @ Site LS	1	LS	$ 43,000.00
170.16.1200	Pull & Terminate Wire @ Site LS	1	LS	$ 24,000.00
170.16.5000	Install Light Fixtures @ Site LS	1	LS	$ 6,000.00
170.90.1000	Startup & Test Site Lift Sta.	1	LS	$ 3,000.00
ODP	SITE LIFT STA - SITE LIFT STATION PUMP #1	1	EA	$ 22,078.50
ODP	SITE LIFT STA - SITE LIFT STATION PUMP #2	1	EA	$ 22,078.50
180 - EFFLUENT METER				
180.02.3000	Prep. Subgrade @ Effluent Meter	1	LS	$ 11,000.00
180.03.3000	F/P Effluent Meter Slab	1	LS	$ 17,000.00
180.09.9000	Paint & Label Piping @ Eff. Meter	1	LS	$ 3,000.00

ITEM NO.	DESCRIPTION LIST CONTRACT ITEMS, CHANGE ORDER ITEMS AND DEDUCTIONS, EACH WITH SUBTOTAL	CONTRACT		
		QUANT	UNIT OF MEAS.	TOTAL COST OF ITEM
180.13.3100	Install Field Instruments @ Eff. Meter	1	LS	$ 1,000.00
180.15.2000	Install Process Piping @ Eff. Meter	1	LS	$ 63,000.00
180.16.1080	Install Elec Panels & Devices @ Eff. Meter	1	LS	$ 2,000.00
180.16.1100	Rough-in Electrical @ Eff. Meter	1	LS	$ 6,000.00
180.16.1200	Pull & Terminate Wire @ Eff. Meter	1	LS	$ 1,000.00
180.16.5000	Install Light Fixtures @ Eff. Meter	1	LS	$ 6,000.00
180.90.1000	Startup & Test Effluent Meter	1	LS	$ 2,000.00

TOTAL COST OF COLUMNS	**$ 37,982,819.90**
CHANGE ORDER WORK TO DATE	$ -
GRAND TOTAL	**$ 37,982,819.90**

EXHIBIT 4 to Resolution 2020-R-07

APPLICATION AND RECOMMENDATION FOR PAYMENT

To Owner:
West Villages Construction, LLLP
Brad Soule, Director of Land Development
19503 S. West Villages Parkway #14
Venice, Florida 34293

From Contractor:
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Fort Myers, FL 33908

Engineer:
Kimley-Horn and Associates, Inc.
1777 Main Street Suite 200
Sarasota, FL 34236
Ashley M. Miele, P.E.
(941) 379-7616
ashley.miele@kimley-horn.com

Application No.:	10 Final
Period To:	06/30/2019
YBI Job No.:	018-10-030
Contract No.:	TBD
Purchase Order No.:	TBD
Contract Date:	1-May-2018
Invoice No.:	201830-10
NTP:	9-Jul-2018
SC:	9-Jun-2019
FC:	9-Jul-2019

West Villages Improvement District Class I Industrial Injection Well System

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below in connection with the contract. Continuation sheets are attached.

1. ORIGINAL CONTRACT SUM		$ 5,200,000.00
2. NET CHANGE BY CHANGE ORDER		$ 230,290.00
3. CONTRACT SUM TO DATE (Line 1 +/- Line 2)		$ 5,430,290.00
4. TOTAL COMPLETED & STORED TO DATE		$ 5,430,290.00
5. RETAINAGE:		
a. 0% of Completed Work (Column D & E on Cont. Sheets)	$ -	
b. 0% of Stored Materials (Column F on Cont. Sheets)	$ -	
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)		$ 5,430,290.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 prior Application)		$ 5,074,225.50
8. CURRENT PAYMENT DUE		$ 356,064.50
9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	$ -	

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by OWNER	$ 141,290.00	$ -
Total approved this Month	$ 89,000	-
TOTAL	$ 230,290	-
NET CHANGES by Change Order	$ 230,290	-

Contractor's Certification: According to the best of my knowledge and belief, I certify that all work has been performed and materials supplied in full accordance with the terms and conditions of the contract. I further certify that with the exception(s) identified an the attached schedule, payments in full have hertofore been madeby the contractor to all persons, firms and coproations supplying labor, materials, or supplies, used directly or indirectly by the contractor or by any subsontractor in the prosecution of the work provided for in said contract.

CONTRACTOR: Youngquist Brothers, Inc.

By: _____ Date: June 30, 2019
C.W. "Bill" Musselwhite - Senior Vice President

State of: Florida

County of: Lee

Subscribed and sworn to before me this 2nd day of July, 2019.

Notary Public: GG 238232
My Commission expires: 07/15/2022

MARIA REYES
MY COMMISSION # GG 238232
EXPIRES: July 15, 2022
Bonded Thru Notary Public Underwriters

ENGINEER'S RECOMMENDATION FOR PAYMENT

In accordance with the Contract Documents, based on-site observation and data comprising this application, the Engineer certifies to the Owner that the to the best of the Engineer's knowledge, information and belief the work has progressed as indicated, the quality of the work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMMOUNT RECOMMENDED.

AMOUNT RECOMMENDED ..... $ 356,064.50
(Attached explanation if amount recommended differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheets that are changed to conform to the amount recommended)

Engineer: Ashley M. Miele, P.E.

By: _____ Date: _____

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

EXHIBIT 4 to Resolution 2020-R-07

Continuation Sheets

A	B	C				D		E		F		G		H
Item No.	DESCRIPTION OF WORK	SCHEDULE VALUE				WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		WORK COMPLETED THIS PERIOD		MATERIALS PRESENTLY STORED (NOT IN D OR E)		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	BALANCE TO FINISH (C-G)
		Unit	$/Unit	# of Units	Est. Value	# of Units	Actual Value	# of Units	Actual Value	# of Units	Actual Value			
Part 1 - Injection Well IW-1														
1-1	Mob & Demob IW-1	LS	$1,800,000	1	$1,800,000.00	1.00	$1,800,000.00	0.00	$0.00	0	$0.00	$1,800,000.00	100%	$0.00
1-2	F&I 62" Pit Casing	LS	$380,000	1	$380,000.00	1	$380,000.00	0	$0.00	0	$0.00	$380,000.00	100%	$0.00
1-3 a	Pilot Hole to Approx. 300' bpl	Ft.	$95	300	$28,500.00	326	$30,970.00	0	$0.00	0	$0.00	$30,970.00	109%	-$2,470.00
1-3 b	Pilot Hole to Approx. 2100' bpl	Ft.	$95	1800	$171,000.00	1747	$165,965.00	0	$0.00	0	$0.00	$165,965.00	97%	$5,035.00
1-4 a	Ream nom. 62" Borehole	Ft.	$95	300	$28,500.00	323	$30,685.00	0	$0.00	0	$0.00	$30,685.00	108%	-$2,185.00
1-4 b	Ream nom. 54" Borehole	Ft.	$95	700	$66,500.00	580	$55,100.00	0	$0.00	0	$0.00	$55,100.00	83%	$11,400.00
1-4 c	Ream nom. 44" Borehole	Ft.	$75	500	$37,500.00	492	$36,900.00	0	$0.00	0	$0.00	$36,900.00	98%	$600.00
1-4 d	Ream nom. 24" Borehole	Ft.	$50	600	$30,000.00	517	$25,850.00	0	$0.00	0	$0.00	$25,850.00	86%	$4,150.00
1-5 a	Log PH to 300' bpl	Ea.	$17,100	1	$17,100.00	1	$17,100.00	0	$0.00	0	$0.00	$17,100.00	100%	$0.00
1-5 b	Log Reamed Hole to 300' bpl	Ea.	$17,100	1	$17,100.00	1	$17,100.00	0	$0.00	0	$0.00	$17,100.00	100%	$0.00
1-5 c	Log PH to 1000' bpl	Ea.	$17,100	1	$17,100.00	1	$17,100.00	0	$0.00	0	$0.00	$17,100.00	100%	$0.00
1-5 d	Log Reamed Hole to 1000' bpl	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 e	log PH to 2100' bpl	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 f	Log Reamed Hole to 1500' bpl	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 g	Video & Caliper Completed Well	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 h	Temp Log Cement Grout Stages	Ea.	$285	24	$6,840.00	7	$1,995.00	0	$0.00	0	$0.00	$1,995.00	29%	$4,845.00
1-5 i	Cement Bond Log 34" Casing	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 j	Cement Bond Log FRP	Ea.	$23,750	1	$23,750.00	1	$23,750.00	0	$0.00	0	$0.00	$23,750.00	100%	$0.00
1-5 k	Temp Log & RTS	Ea.	$26,600	1	$26,600.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$26,600.00
1-6 a	F&I 54" Steel Casing	Ft.	$171	300	$51,300.00	323	$55,233.00	0	$0.00	0	$0.00	$55,233.00	108%	-$3,933.00
1-6 b	F&I 44" Steel Casing	Ft.	$143	1000	$143,000.00	900	$128,700.00	0	$0.00	0	$0.00	$128,700.00	90%	$14,300.00
1-6 c	F&I 34" Steel Casing	Ft.	$143	1500	$214,500.00	1395	$199,485.00	0	$0.00	0	$0.00	$199,485.00	93%	$15,015.00
1-6 d	F&I 22" Red Box FRP Tubing	Ft.	$237	1500	$355,500.00	1393	$330,141.00	0	$0.00	0	$0.00	$330,141.00	93%	$25,359.00
1-7 a	Emplace Cement Grout (Neat)	CF	$14	8200	$114,800.00	4668	$65,352.00	0	$0.00	0	$0.00	$65,352.00	57%	$49,448.00
1-7 b	Emplace Cement Grout 6%	CF	$11	13800	$151,800.00	18050	$198,550.00	0	$0.00	0	$0.00	$198,550.00	131%	-$46,750.00
1-8	Gravel	CY	$308	40	$12,320.00	10	$3,080.00	0	$0.00	0	$0.00	$3,080.00	25%	$9,240.00
1-9 a	P-Test 34" Final Casing	LS	$28,500	1	$28,500.00	1	$28,500.00	0	$0.00	0	$0.00	$28,500.00	100%	$0.00
1-9 b	P-Test 22" RB 1250 FRP	LS	$28,500	1	$28,500.00	1	$28,500.00	0	$0.00	0	$0.00	$28,500.00	100%	$0.00
1-10	Retrieve & Analyze Rock Cores	Ft.	$570	50	$28,500.00	28	$15,675.00	0.0	$0.00	0	$0.00	$15,675.00	55%	$12,825.00
1-11	Packer Test Set Up	Ea.	$7,600	8	$60,800.00	7	$53,200.00	0	$0.00	0	$0.00	$53,200.00	88%	$7,600.00
1-12	Packer Test Pumping Time	Hr.	$380	140	$53,200.00	30.5	$11,590.00	0.0	$0.00	0	$0.00	$11,590.00	22%	$41,610.00
1-15	Develop Well	Hr.	$380	8	$3,040.00	1.5	$570.00	0.0	$0.00	0	$0.00	$570.00	19%	$2,470.00
1-16	Temporary Wellhead - Per Plans	LS	$2,500	1	$2,500.00	1	$2,500.00	0	$0.00	0	$0.00	$2,500.00	100%	$0.00
1-17	Standby Time	Hr.	$380	12	$4,560.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$4,560.00
1-19 a	WQ PMW	Ea.	$285	36	$10,260.00	48	$13,680.00	0	$0.00	0	$0.00	$13,680.00	133%	-$3,420.00
1-19 b	WQ Packer Tests (List A)	Ea.	$475	16	$7,600.00	7	$3,325.00	0	$0.00	0	$0.00	$3,325.00	44%	$4,275.00
1-19 c	WQ Rev. Air Drilling (List B)	Ea.	$475	22	$10,450.00	18	$8,550.00	0	$0.00	0	$0.00	$8,550.00	82%	$1,900.00
1-19 d	WQ Completed Well (List C)	Ea.	$3,822	1	$3,822.00	1	$3,822.00	0	$0.00	0	$0.00	$3,822.00	100%	$0.00
Subtotal Part 1: IW-1					$4,054,192.00		$3,871,718.00		$0.00		$0.00	$3,871,718.00	95%	$182,474.00

EXHIBIT 4 to Resolution 2020-R-07

Continuation Sheets

A	B	C				D		E		F		G		H
Item No.	DESCRIPTION OF WORK	SCHEDULE VALUE				WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		WORK COMPLETED THIS PERIOD		MATERIALS PRESENTLY STORED (NOT IN D OR E)		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	BALANCE TO FINISH (C-G)
		Unit	$/Unit	# of Units	Est. Value	# of Units	Actual Value	# of Units	Actual Value	# of Units	Actual Value			
Part 2 - Monitor Well LZMW-1														
2-1	Mob & Demob LZMW-1	LS	$157,000	1	$157,000.00	0.60	$94,200.00	0.00	$0.00	0	$0.00	$94,200.00	60%	$62,800.00
2-2	F&I 24" Steel Pit Casing	LS	$71,250	1	$71,250.00	1	$71,250.00	0	$0.00	0	$0.00	$71,250.00	100%	$0.00
2-3 a	Pilot Hole to Approx. 300' bpl	Ft.	$95	300	$28,500.00	300	$28,500.00	0	$0.00	0	$0.00	$28,500.00	100%	$0.00
2-3 b	Pilot Hole to Approx. 1250' bpl	Ft.	$95	950	$90,250.00	598	$56,810.00	0	$0.00	0	$0.00	$56,810.00	63%	$33,440.00
2-4 a	Ream nom. 24" Borehole	Ft.	$50	300	$15,000.00	300	$15,000.00	0	$0.00	0	$0.00	$15,000.00	100%	$0.00
2-4 b	Ream nom. 16" Borehole	Ft.	$30	900	$27,000.00	598	$17,940.00	0	$0.00	0	$0.00	$17,940.00	66%	$9,060.00
2-5 a	Log PH to 300' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
2-5 b	Log Reamed Hole to 300' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
2-5 c	Log PH to 1250' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
2-5 d	Log Reamed Hole to 1200' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
2-5 e	Video & Caliper Completed Well	Ea.	$13,300	1	$13,300.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$13,300.00
2-5 f	Cement Bond Log FRP	Ea.	$11,400	1	$11,400.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$11,400.00
2-6 a	F&I 16" Steel Casing	Ft.	$50	300	$15,000.00	300	$15,000.00	0	$0.00	0	$0.00	$15,000.00	100%	$0.00
2-6 b	F&I 6" RB 1000 FRP	Ft.	$38	1200	$45,600.00	845	$32,110.00	0	$0.00	0	$0.00	$32,110.00	70%	$13,490.00
2-7 a	Emplace Cement Grout (Neat)	CF	$11	450	$4,950.00	494	$5,434.00	0	$0.00	0	$0.00	$5,434.00	110%	-$484.00
2-7 b	Emplace Cement Grout 6%	CF	$9	2700	$24,300.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$24,300.00
2-8	Gravel	CY	$308	16	$4,928.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$4,928.00
2-9	Pressure Test FRP	LS	$14,250	1	$14,250.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$14,250.00
2-10	Develop Well	Hr.	$380	8	$3,040.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$3,040.00
2-11	Temporay Wellhead - Per Plans	LS	$1,000	1	$1,000.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$1,000.00
2-12	Packer Test Set Up	Ea.	$4,750	3	$14,250.00	1	$4,750.00	0	$0.00	0	$0.00	$4,750.00	33%	$9,500.00
2-13	Packer Test Pumping Time	Hr.	$380	36	$13,680.00	5	$1,900.00	0	$0.00	0	$0.00	$1,900.00	14%	$11,780.00
2-14	Stanby Time	Hr.	$380	12	$4,560.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$4,560.00
2-15 a	WQ Rev. Air & Packer (List B)	Ea.	$475	19	$9,025.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$9,025.00
2-15 b	WQ Completed Well (List C)	Ea.	$3,821	1	$3,821.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$3,821.00
Subtotal Part 2: LZMW-1					$617,704.00		$388,494.00		$0.00		$0.00	$388,494.00	63%	$229,210.00

EXHIBIT 4 to Resolution 2020-R-07

Continuation Sheets

A	B	C				D		E		F		G		H
Item No.	DESCRIPTION OF WORK	SCHEDULE VALUE				WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		WORK COMPLETED THIS PERIOD		MATERIALS PRESENTLY STORED (NOT IN D OR E)		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	BALANCE TO FINISH (C-G)
		Unit	$/Unit	# of Units	Est. Value	# of Units	Actual Value	# of Units	Actual Value	# of Units	Actual Value			
Part 3 - Monitor Well UZMW-1														
3-1	Mob & Demob UZMW-1	LS	$125,000	1	$125,000.00	1.00	$125,000.00	0.00	$0.00	0	$0.00	$125,000.00	100%	$0.00
3-2	F&I 24" Steel Pit Casing	LS	$71,250	1	$71,250.00	1	$71,250.00	0	$0.00	0	$0.00	$71,250.00	100%	$0.00
3-3 a	Pilot Hole to Approx. 300' bpl	Ft.	$95	300	$28,500.00	300	$28,500.00	0	$0.00	0	$0.00	$28,500.00	100%	$0.00
3-3 b	Pilot Hole to Approx. 1000' bpl	Ft.	$95	700	$66,500.00	360	$34,200.00	0	$0.00	0	$0.00	$34,200.00	51%	$32,300.00
3-4 a	Ream nom. 24" Borehole	Ft.	$50	300	$15,000.00	300	$15,000.00	0	$0.00	0	$0.00	$15,000.00	100%	$0.00
3-4 b	Ream nom. 16" Borehole	Ft.	$30	650	$19,500.00	360	$10,800.00	0	$0.00	0	$0.00	$10,800.00	55%	$8,700.00
3-5 a	Log PH to 300' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
3-5 b	Log Reamed Hole to 300' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
3-5 c	Log PH to 1000' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
3-5 d	Log Reamed Hole to 950' bpl	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
3-5 e	Video & Caliper Completed Well	Ea.	$13,300	1	$13,300.00	1	$13,300.00	0	$0.00	0	$0.00	$13,300.00	100%	$0.00
3-5 f	Cement Bond Log FRP	Ea.	$11,400	1	$11,400.00	1	$11,400.00	0	$0.00	0	$0.00	$11,400.00	100%	$0.00
3-6 a	F&I 16" Steel Casing	Ft.	$50	300	$15,000.00	300	$15,000.00	0	$0.00	0	$0.00	$15,000.00	100%	$0.00
3-6 b	F&I 6" RB 1000 FRP	Ft.	$38	950	$36,100.00	600	$22,800.00	0	$0.00	0	$0.00	$22,800.00	63%	$13,300.00
3-7 a	Emplace Cement Grout (Neat)	CF	$11	450	$4,950.00	432	$4,752.00	0	$0.00	0	$0.00	$4,752.00	96%	$198.00
3-7 b	Emplace Cement Grout 6%	CF	$9	2200	$19,800.00	34	$306.00	0	$0.00	0	$0.00	$306.00	2%	$19,494.00
3-8	Gravel	CY	$308	16	$4,928.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$4,928.00
3-9	Pressure Test FRP	LS	$14,250	1	$14,250.00	1	$14,250.00	0	$0.00	0	$0.00	$14,250.00	100%	$0.00
3-10	Develop Well	Hr.	$380	8	$3,040.00	6	$2,280.00	0	$0.00	0	$0.00	$2,280.00	75%	$760.00
3-11	Temporay Wellhead - Per Plans	LS	$1,000	1	$1,000.00	1	$1,000.00	0	$0.00	0	$0.00	$1,000.00	100%	$0.00
3-12	Packer Test Set Up	Ea.	$4,750	1	$4,750.00	3	$14,250.00	0	$0.00	0	$0.00	$14,250.00	300%	-$9,500.00
3-13	Packer Test Pumping Time	Hr.	$380	36	$13,680.00	12	$4,560.00	0	$0.00	0	$0.00	$4,560.00	33%	$9,120.00
3-14	Stanby Time	Hr.	$380	12	$4,560.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0%	$4,560.00
3-15 a	WQ Rev. Air & Packer (List B)	Ea.	$475	13	$6,175.00	11	$5,225.00	0	$0.00	0	$0.00	$5,225.00	85%	$950.00
3-15 b	WQ Completed Well (List C)	Ea.	$3,821	1	$3,821.00	1	$3,821.00	0	$0.00	0	$0.00	$3,821.00	100%	$0.00
Subtotal Part 3: UZMW-1					$528,104.00		$443,294.00		$0.00		$0.00	$443,294.00	84%	$84,810.00

EXHIBIT 4 to Resolution 2020-R-07

Continuation Sheets

A	B	C				D		E		F		G		H
Item No.	DESCRIPTION OF WORK	SCHEDULE VALUE				WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		WORK COMPLETED THIS PERIOD		MATERIALS PRESENTLY STORED (NOT IN D OR E)		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	BALANCE TO FINISH (C-G)
		Unit	$/Unit	# of Units	Est. Value	# of Units	Actual Value	# of Units	Actual Value	# of Units	Actual Value			
Part 4 Contract Reconciliation														
5-1	Remaining Lump Sum Contract Price at Completion	LS	$496,494	0	$0.00	1	$496,494.00	0	$0.00	0	$0.00	$496,494.00	0	-$496,494.00
TOTAL Original Contract Value					**$5,200,000.00**		**$5,200,000.00**		**$0.00**		**$0.00**	**$5,200,000.00**	**100%**	**$0.00**
Part 5 - Contingent Items														
4-1	Ream nom. 34" Borehole	Ft.	$80	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-2	F&I 24" Steel Casing	Ft.	$224	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-3	Log Reamed Hole to 900' bpl	Ea.	$11,400	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-4	Ream nom. 24" Borehole 900' bpl	Ft.	$50	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-5	F&I 16" Steel Casing	Ft.	$50	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-6	Additional Cement Grout 6%	CF	$9	0	$0.00	0	$0.00	0	$0.00	0	$0.00	$0.00	0	$0.00
4-7	Wellhead Allowance	Ea.	$100,000	0.7654	$76,540.00	1	$76,540.00	0	$0.00	0	$0.00	$76,540.00	100%	$0.00
4-8	Steel Tariff Adjustment	LS	$57,250	1	$57,250.00	1	$57,250.00	0	$0.00	0	$0.00	$57,250.00	100%	$0.00
4-9	Delay in Full NTP (FDEP Permit)	Day	$1,500	5	$7,500.00	5	$7,500.00	0	$0.00	0	$0.00	$7,500.00	100%	$0.00
4-10	Injection Test	LS	$89,000	1	$89,000.00	0	$0.00	**1**	**$89,000.00**	0	$0.00	$89,000.00	100%	$0.00
Subtotal Part 5: Contingent Items					$230,290.00		$141,290.00		$89,000.00		$0.00	$230,290.00	100%	$0.00
Revised Total Contract Value					**$5,430,290.00**		**$5,341,290.00**		**$89,000.00**		**$0.00**	**$5,430,290.00**	**100%**	**$0.00**

EXHIBIT 4 to Resolution 2020-R-07

EXHIBIT B

LOCATION OF INFRASTRUCTURE

The land referred to herein below is situated in the County of Sarasota, State of Florida, and is described as follows:

A tract of land lying in Section 33, Township 39 South, Range 20 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of said Section 33; thence S.00°16'02"W., along the East line of said Section 33, a distance of 289.02 feet to the POINT OF BEGINNING, said point being the intersection of the Southerly right-of-way line of Tamiami Trail (U.S.41, Section 17010-2508, 204.00 foot wide public right-of-way); thence continue S.00°16'02"W., along said East line of Section 33, a distance of 1,702.14 feet; thence N.90°00'00"W., a distance of 404.30 feet; thence N.28°37'40"W., a distance of 1,003.23 feet; thence N.00°01'27"E., a distance of 355.39 feet; thence S.89°58'33"E., a distance of 740.41 feet; thence N.19°42'14"E., a distance of 210.88 feet; thence N.00°16'02"E., a distance of 284.07 feet to the point of curvature of a non-tangent curve to the left, having a radius of 3,011.73 feet and a central angle of 01°33'05", said point being on the above mentioned Southerly right-of-way line of Tamiami Trail; thence Easterly along the arc of said curve and said Southerly right-of-way line, a distance of 81.54 feet, said curve having a chord bearing and distance of S.78°34'49"E., 81.54 feet, to the POINT OF BEGINNING.

ACKNOWLEDGMENT OF ACQUISITION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACKNOWLEDGMENT OF ASSIGNMENT OF WARRANTIES

THIS ACKNOWLEDGMENT OF ACQUISITION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACKNOWLEDGMENT OF ASSIGNMENT OF WARRANTIES (the "Assignment") is made the 29th day of Jan, ~~2019~~ 2020 by:

West Villages Improvement District, which is a local unit of special-purpose government situated in the City of North Port and Sarasota County, Florida, whose mailing address is 2501-A Burns Road, Palm Beach Gardens, Florida 33410 (the "District"); and

Garney Companies, Inc., a Florida corporation, with a mailing address of 1333 NW Vivion Road, Kansas City, Missouri 64118 (the "Contractor"); and

The City of North Port, Florida, a Florida municipal corporation with a mailing address of 4970 City Hall Boulevard, North Port, Florida 34286 (the "City").

RECITALS

WHEREAS, the Contractor has provided construction services to the District pursuant to a contract for the provision of such services, attached hereto as **Exhibit A** (the "Construction Contract"), as amended from time to time, in connection with its construction of a wastewater treatment plant and ancillary facilities within the District as more particularly described on the attached **Exhibit B** (the "Improvements"); and

WHEREAS, the City intends to acquire the Improvements and, as part of that acquisition, the District intends to assign all warranties, including those provided in the Construction Contract, to the City; and

WHEREAS, the Contractor acknowledges that the warranties are freely assignable and has no objection to the assignment of the warranties to the City; and

NOW, THEREFORE, for and in consideration of mutual promises and obligations, the receipt and sufficiency of which are hereby acknowledged, the City and the District agree, and the Contractor acknowledges, as follows:

SECTION 1. ACQUISITION OF IMPROVEMENTS. Contractor acknowledges that the City is or has acquired the Improvements, constructed by Contractor in connection with the Construction Contract, from District. The Contractor acknowledges and agrees that all warranties, statutory and contractual, are freely assignable and has no objection to the District assigning to the City the warranties described therein for the Improvements.

SECTION 2. ASSIGNMENT OF WARRANTIES. District herby assigns such warranties to

the City, and the Contractor hereby agrees to fulfill such warranties pursuant to the terms of the Construction Contract and Florida law.

SECTION 3. CERTIFICATE OF PAYMENT. Contractor hereby acknowledges that it has been fully compensated for its services and work related to the completion of the Improvements. Contractor further certifies that no outstanding requests for payment exist related to the Improvements, the scope of which is set forth in **Exhibit A,** including any payments to subcontractors, materialmen, suppliers or otherwise, and that there is no disagreement as to the appropriateness of payment made for the Improvements. This document shall constitute a final waiver and release of lien for any payments due to Contractor by District and/or the District for the Improvements pursuant to the Construction Contract.

SECTION 4. EFFECTIVE DATE. This Assignment shall take effect on the date identified above.

[SIGNATURES ON NEXT PAGE]

ATTEST:

Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

ATTEST:

[print name]

THE CITY OF NORTH PORT, FLORIDA

By: _____

Its: _____

ATTEST:

Carolyn Fracek
Assistant Secretary

[print name]

GARNEY COMPANIES, INC., a Missouri corporation

By: TIMOTHY M. BEHLER

Its: COO

GARNEY COMPANIES, INC. CORPORATE SEAL MISSOURI

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
(Owner)

AND
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
(Construction Manager at Risk "CMAR" or "Contractor")

March 9, 2018

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER (where the construction manager is also the constructor) (the "Agreement" or "Contract") is dated and made on the 9th day of March, 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor").

Owner information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@mattamycorp.com

CMAR information:
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118
CMAR's designated representative:
Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 - office
(321) 229-7221- mobile
tbehler@garney.com

Project information:
Construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District (WVID). The Project includes design, constructability analysis, value engineering, supervising control and data acquisition integration (SCADA) in accordance with all Laws and Regulations, permits and other requirements of the West Villages Improvement District, City of North Port, the Florida Department of Environmental Protection (FDEP) and such other agency or district. The CMAR will work with the Owner and Engineer to complete the Project design, construction, and start-up at which time ownership and operations of the fully functional facility will be turned over to the West Villages Improvement District or City of North Port. This Agreement may be assigned by Owner without notice to the WVID or such other agency.

Engineer information:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.

(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

Unless context otherwise requires, or as specifically set-forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as **Exhibit I**.
The Owner and CMAR agree as follows:

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 CMAR RESPONSIBILITIES

3 OWNER RESPONSIBILITIES

4 ENGINEER

5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE

6 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE

7 COST OF WORK FOR CONSTRUCTION PHASE

8 PAYMENT PROCEDURES

9 INSURANCE AND BONDS

10 ENUMERATION OF CONTRACT DOCUMENTS

11 MISCELLANEOUS

12 TERMINATION OR SUSPENSION

13 DISPUTE RESOLUTION

ARTICLE 1. GENERAL PROVISIONS

§1.1 CMAR has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means and methods dictated by design parameters in the Contract Documents. CMAR covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner; (ii) provide efficient construction administration, management services and supervision; (iii) provide at all times an adequate supply of workers and materials; and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Laws and Regulations, and the Contract Times.

§1.2 Neither CMAR nor any of CMAR's employees shall be deemed employees of the Owner for any purpose whatsoever; CMAR being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

§1.3 For the Preconstruction Phase, the General Conditions, shall apply only as specifically provided in this Agreement. For the Construction Phase, the General Conditions shall be as set forth in the General Conditions, which document is incorporated herein by reference. The term "Contractor" as used in the General Conditions shall mean the CMAR.

ARTICLE 2. CMAR RESPONSIBILITIES

CMAR shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. CMAR shall provide all services, deliverables and perform all Work more specifically described in the Contract Documents. The CMAR's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2 of this Agreement. CMAR's Construction Phase responsibilities are set forth in Section 2.3 and the General Conditions. The Owner and CMAR may agree, in consultation with the Engineer, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The CMAR has identified its Chief Operating Officer, Timothy M. Behler, who is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The CMAR shall provide all services and deliverables identified in the "PRECONSTRUCTION SCOPE OF SERVICES, Southwest Wastewater Reclamation Facility (Project)", dated September 13, 2017, incorporated herein and attached hereto as **Exhibit A**, and the "West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP" dated, September 27, 2017 and modified on November 17, 2017, incorporated herein and attached within **Exhibit B**, at such times reflected in Exhibits A and B, time being of the essence. CMAR's services specifically include a review of structural, mechanical, plumbing, electrical, architectural, Site/civil design for the completion of the Work. On the Effective Date, the Contract Documents relating to Sections 2.1 and 2.2 shall be fully incorporated into Exhibits A and B, *nunc pro tunc*.

§ 2.1.2 Consultation

The CMAR shall schedule and conduct meetings with the Engineer and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The CMAR shall advise the Owner and the Engineer on proposed Site use and improvements, selection of materials, and building systems and equipment. The CMAR shall also provide recommendations consistent with the Project requirements to the Owner and Engineer on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 Progress Schedule

Upon reaching the design percentages reflected in Exhibit A, the CMAR shall prepare and periodically update a Progress Schedule for the Engineer's review and the Owner's acceptance. The Progress Schedule shall coordinate and integrate the CMAR's services, the Engineer's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The Progress Schedule shall include the following: submission of the Guaranteed

Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; Milestones, ordering and delivery of products, including those that must be ordered well in advance of construction; and other requirements of the Owner.

§ 2.1.4 Phased Construction

CMAR shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The CMAR shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Upon reaching the design percentages reflected in Exhibits A and B, the CMAR shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Engineer's review and Owner's approval. If the Engineer or CMAR suggests alternative materials and systems, the CMAR shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 At appropriate intervals reflected in Exhibits A and B, CMAR shall prepare detailed cost estimates of the Cost of the Work of increasing detail and refinement, allowing for further development of the design until such time as the Owner and CMAR agree on a Guaranteed Maximum Price ("GMP") for the Work (the term "GMP" shall collectively refer to GMP1 and GMP2, as hereafter defined). The CMAR shall inform the Owner and Engineer when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Bidding, Permitting and Long Lead Items

The CMAR shall develop bidders' interest in the Project and provide such services for GMP development described in Exhibit A.

§ 2.1.6.1 CMAR shall prepare, for the Engineer's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The CMAR shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. Upon the establishment of the GMP, the Owner shall assign all contracts for these items to the CMAR and the CMAR shall thereafter accept responsibility for them.

§ 2.1.6.2 The CMAR shall take commercially reasonable efforts to apply for and obtain all permits reflected in **Exhibit P**.

§ 2.1.7 Notices and Compliance with Laws

The CMAR shall comply with all Laws and Regulations applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.

§ 2.2 GMP Development

§ 2.2.1 Upon reaching the design percentages reflected in Exhibits A and B, and in consultation with the Owner and Engineer, the CMAR shall prepare a GMP proposal for the Owner's review and acceptance. The GMP proposal shall be the sum of the CMAR's estimate of the Cost of the Work and the CMAR's Fee.

§ 2.2.1.1 GMP 1. Owner and CMAR have agreed on a GMP for portions of the Work identified in **Exhibits D1-1** through **D1-5** ("GMP1")**.** The Contract Price for the Work reflected in GMP1 is guaranteed by the CMAR not to exceed Fourteen Million Three Hundred Four Thousand Seven Hundred Forty Five and No/100 Dollars ($14,304,745.00) subject to additions and deductions by Change Order as provided by the Contract Documents. Exhibits D1-1 through D1-5 are itemized statements of GMP1 organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP1.

§ 2.2.1.2 GMP 2. In addition to the GMP1, and in accordance with the provision of Sections 2.2.6 and 6.2 of this Agreement, CMAR shall propose to Owner for Owner's consideration and written approval, a GMP2, which shall represent the CMAR's Contract Price for the entire Project and all Work. The GMP2 shall include all amounts previously agreed upon within GMP1 and shall be organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP2.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Engineer, the CMAR shall provide in the GMP2 for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The CMAR shall include with the GMP2 proposal a written statement of its basis, which shall include the following:

- **.1** A list of the Drawings and Specifications, including all Addenda thereto, and the conditions of the Contract;
- **.2** A list of the clarifications and assumptions made by the CMAR in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- **.3** A statement of the proposed GMP2, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the CMAR's Fee;
- **.4** The anticipated date of Substantial Completion upon which the proposed GMP2 is based; and
- **.5** All indirect GMP services and General Conditions/General Requirements identified in the "INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, incorporated herein and attached hereto as **Exhibit C**;
- **.6** A date by which the Owner must accept the GMP2.

§ 2.2.4 The CMAR shall meet with the Owner and Engineer to review the GMP2 proposal. In the event that the Owner and Engineer discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CMAR, who shall make appropriate adjustments to the GMP2 proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the CMAR that the Owner has accepted the GMP2 proposal in writing before the date specified in the GMP2 proposal, the GMP2 proposal shall be deemed effective without further acceptance from the CMAR. Following acceptance of the GMP2, the Owner and CMAR shall

execute the Guaranteed Maximum Price Amendment, an exemplar form of which is attached hereto as **Exhibit D2**, (the "GMP2 Amendment") amending this Agreement, a copy of which the Owner shall provide to the Engineer. The GMP2 Amendment shall set forth the agreed upon, guaranteed Contract Price for the entire Work of the Project with the information and assumptions upon which it is based.

§ 2.2.7 The CMAR shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs. Any such costs incurred by CMAR shall be borne solely by CMAR without any reimbursement from Owner.

§ 2.2.8 The Owner will authorize the Engineer to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the GMP2 Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the CMAR as they are revised. The CMAR shall promptly notify the Owner and Engineer of any inconsistencies of which it has knowledge between the GMP2 Amendment and the revised Drawings and Specifications.

§ 2.2.9 The CMAR shall include in the GMP2 all sales, consumer, use and similar taxes for the Work provided by the CMAR that are legally enacted at the time the GMP2 Amendment is executed.

§ 2.3 Construction Phase
§ 2.3.1 General
§ 2.3.1.1 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as **Exhibit F**.

§ 2.3.1.3 CMAR's Designated Representative
CMAR's designated representative is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.3.2 Contract Times
§ 2.3.2.1 Substantial Completion.
Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.3.1.2 of this Agreement. CMAR shall achieve Substantial Completion of the entire Work within **640** calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. CMAR shall finally complete the Work and satisfy all conditions to final completion and final payment within **30** calendar days from Substantial Completion, time being of the essence.

§ 2.3.2.2 Liquidated Damages.
CMAR understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if CMAR fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then CMAR shall pay Owner as liquidated damages and not by way of penalty, the following:

- Three Thousand and No/100 Dollars ($3,000.00) per calendar day, for the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work within the specified time; and

- Six Thousand and No/100 Dollars ($6,000.00) per calendar day, after the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work.

The liquidated damages specified herein are in addition to any other damages Owner is entitled to under the Agreement or at law that are not related to delays in the Work. In the event Owner withholds or deducts any money or payment due from CMAR for liquidated damages, CMAR shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due CMAR under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements CMAR has with Owner. In the event no money is due the CMAR, then CMAR shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

CMAR expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that CMAR fails to substantially complete the Work in a timely manner. Owner agrees and acknowledges that the liquidated damages are the sole and exclusive remedy available to the Owner with respect to any damages it sustains as a result of delay. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3.3 Administration

§ 2.3.3.1 Prior to any assignment to West Villages Improvement District provided in 11.2 of this Agreement, those portions of the Work that the CMAR does not customarily perform with the CMAR's own personnel shall be performed under subcontracts or by other appropriate agreements with CMAR. Owner may designate specific persons from whom, or entities from which, the CMAR shall obtain bids. CMAR shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Engineer. The Owner shall then determine, with the advice of CMAR and the Engineer, which bids will be accepted. CMAR shall competitively bid work it customarily performs with its own personnel and receive at least three (3) bids for all Work to be performed by Subcontractors that is in excess of One Hundred Thousand and No/100 Dollars ($100,000.00).

§ 2.3.3.1.1 Notwithstanding the provisions of 2.3.3.1, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as **Exhibit L** and **Exhibit M**, respectively.

§ 2.3.3.2 CMAR Self-Performed Work

Unless otherwise agreed to in writing by Owner, any portion of the Work that CMAR customarily performs with its own personnel that is in excess of One Hundred Twenty Five Thousand and No/100 Dollars ($125,000.00) shall competitively bid. CMAR shall receive no fewer than three (3) bids from non-affiliated entities (unrelated parties) for all Work CMAR intends to self-perform. All such bids shall be provided to Owner and Engineer upon submission of the GMP2 proposal. Notwithstanding the provisions of 2.3.3.2, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02 and Resolution 2016-21, copies of which are attached hereto and incorporated herein as Exhibit L and Exhibit M, respectively**.**

§ 2.3.3.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the CMAR recommends a specific bidder that may be considered a "related party, then the CMAR shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction.

§ 2.3.3.4. CMAR shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The CMAR shall prepare and promptly distribute minutes to the Owner and Engineer.

§ 2.3.3.5 Upon executing the GMP2 Amendment, CMAR shall prepare and submit to the Owner and Engineer a preliminary Progress Schedule for the Work, preliminary Schedule of Submittals, and preliminary Schedule of Values in accordance with Section 2.03 of the General Conditions.

§ 2.3.3.6. On a monthly basis, or otherwise as agreed to by the Owner, CMAR shall submit written progress reports to the Owner and Engineer, showing percentages of completion and other information required by the Owner. CMAR shall also keep, and make available to the Owner and Engineer, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on Site, identification of equipment on Site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner. The daily log shall be available immediately upon request of the Engineer or Owner.

§ 2.3.3.7 CMAR shall develop a system of cost control for the Work, including daily monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. CMAR shall identify potential variances between actual and estimated costs and report the variances to the Owner and Engineer and shall provide this information in its monthly reports to the Owner and Engineer.

§ 2.3.2.8 CMAR shall inspect the Work of the Subcontractors daily for defects and deficiencies in the Work.

§ 2.3.2.9 CMAR shall maintain at the Site, records of all contracts, Drawings, Samples, Submittals, purchases, materials, equipment, maintenance and operating manuals, instructions, and other construction related documents, including all revisions. CMAR shall obtain data from subcontractors and maintain a current set of record Drawings, Specifications and operating manuals. At the completion of the Project, CMAR shall deliver all such records to the Owner.

§ 2.3.2.10 CMAR shall protect all materials, equipment, completed and partially completed Work from loss and damage including theft and damage by weather. CMAR warrants that all materials and

equipment procured by CMAR and included in the Work will be new, free from defects and in accordance with the Drawings and Specifications, but makes no such warranty as to materials and equipment directly purchased by Owner. CMAR warrants that the Project shall be built and constructed without error, flaw or omission, in compliance with all Laws and Regulations and in strict conformance with the requirements of the Drawings and Specifications.

ARTICLE 3. OWNER RESPONSIBILITIES

§ 3.1 Information

§ 3.1.1 The Owner has provided information regarding requirements for and limitations on the Project. The Owner has established an overall budget for the Project. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the CMAR.

§ 3.1.2 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the Site, and a legal description of the Site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the Site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees.

§ 3.1.3 Owner, when such services are required, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4 Owner shall make timely payments to CMAR and in accordance with Article 9 and Article 15 of the General Conditions.

ARTICLE 4. ENGINEER.

The Project is being designed by the Engineer with assistance by the CMAR. The Engineer will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 5. COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE.

§ 5.1 Compensation

§ 5.1.1 For the CMAR's Preconstruction Phase services, the Owner shall compensate the CMAR a stipulated lump sum of ($135,000).

§ 5.1.2 Compensation based on direct personnel expense includes the direct salaries of the CMAR's personnel providing Preconstruction Phase services on the Project, including project engineer to assist with permitting requirements, and the CMAR's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 5.2 Payment for Preconstruction Phase Services

§ 5.2.1 The payment for Preconstruction Phase services shall be made upon completion of all the services and deliverables.

§ 5.2.2 CMAR acknowledges that it was paid and has received fifty percent (50%) of its stipulated lump sum for the Preconstruction Phase Services. Payment of the remainder of the lumps sum is due upon final completion of the Preconstruction Phase Services and payable upon presentation of the CMAR's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of four percent (4%) per annum. CMAR shall accompany each invoice with a Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment in the form attached hereto as **Exhibit E**.

§ 5.2.3. Notwithstanding the provisions of 5.2.2., after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2016-22, a copy of which is attached hereto and incorporated herein as Exhibit K.

ARTICLE 6. COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE.

§ 6.1 For the CMAR's performance of the Work as described in Section 2.3, the Owner shall pay the CMAR the Contract Price in current funds. The Contract Price is the Cost of the Work as defined in Section 7.1.1 plus the CMAR's Fee.

§ 6.1.1 The CMAR's Fee:

A fixed fee of One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00). CMAR may also receive as an additional fee, six percent (6%) of any GMP that is in excess of Twenty Five Million and No/100 Dollars ($25,000,000). By way of example only, if the GMP is $26,000,000 then CMAR shall receive a $1,500,000 fixed fee together with 6% of the additional $1,000,000 over the $25,000,000 GMP, for a total CMAR Fee of $1,560,000.

§ 6.1.2 The method of adjustment of the CMAR's Fee for changes in the Work:

Six percent (6%) of the change in the Work.

§ 6.1.3 Costs for Construction General Conditions/General Requirements

CMAR's "Construction General Conditions/General Requirements" are attached hereto and incorporated herein as Exhibit C, and shall be a fixed lump sum amount not to exceed $1,425,000 and $75,000 of allowances as per Exhibit B. If the date of Substantial Completion extends past 640 calendar days from the date of Notice to Proceed, through no fault of the CMAR, then applicable extended Construction General Conditions/General Requirements shall be the actual costs of the General Conditions/General Requirements incurred but it no event shall said General Conditions/General Requirements exceed $65,000 per month. If the total amount of the General Conditions/General Requirements are less than the lump sum reflected in Exhibit B, all savings shall belong to the CMAR.

§ 6.1.4 Rental rates for CMAR-owned equipment shall not exceed the standard rate paid at the place of the Project.

§ 6.2 Guaranteed Maximum Price

§ 6.2.1 CMAR guarantees that the Contract Price shall not exceed the Guaranteed Maximum Price set forth in the GMP2 Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the CMAR shall be responsible for such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

§ 6.2.1.1 If upon final completion of the Work, the total Cost of the Work plus the CMAR's Fee is less than the GMP, as adjusted in accordance with this Agreement, then the difference shall be "savings". The savings shall be allocated as follows: (a) eighty percent (80%) to Owner; and (b) twenty percent (20%) to CMAR. Savings shall not include any deletions from the scope of Work under this Agreement.

§ 6.2.2 The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may order changes in the Work consisting of additions, deletions or other revisions as provided in Article 11 of the General Conditions. The Owner shall issue such changes in writing. The Engineer may make minor changes in the Work as provided in Section 11.01 of the General Conditions.

§ 6.3.2 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” shall mean the Cost of the Work as defined in Sections 7.1 to 7.7 of this Agreement and the term “fee” shall mean the CMAR’s Fee as defined in Section 6.1 of this Agreement.

ARTICLE 7. COST OF THE WORK FOR THE CONSTRUCTION PHASE.

§ 7.1 The term Cost of the Work shall mean costs necessarily incurred by CMAR in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.5 and shall never include the CMAR’s Fee.

§ 7.1.1 Where any cost is subject to the Owner’s prior approval, CMAR must obtain this approval prior to incurring the cost.

§ 7.2 Labor Costs

§ 7.2.1 Only those wages of construction workers directly employed by CMAR to perform the construction of the Work at the Site that are not otherwise included in Exhibit F.

§ 7.3 Subcontract Costs

Payments made by the CMAR to Subcontractors in accordance with the requirements of the subcontracts.

§7.4 Construction General Conditions/General Requirements

§7.4.1 Those Costs specifically provided in Exhibit F. Notwithstanding anything to the contrary, Exhibit F shall control over any conflicting provision of Article 7 of this Agreement.

§ 7.5 Miscellaneous Costs

§ 7.5.1 Premiums for that portion of insurance and bonds required by the Contract Documents that are directly attributed to this Agreement that are not included in Exhibit F. Notwithstanding the foregoing, bond premiums shall be (.40%) of the penal sum of the bond. Insurance premiums shall be (0.15%) for CMAR coverages reflected in **Exhibit H**.

7.6 Costs Not To Be Reimbursed

§ 7.6.1 The Cost of the Work shall not include any costs other than specifically provided in 7.2-7.5 of this Agreement.

§ 7.7 Discounts, Rebates and Refunds

§ 7.7.1 Cash discounts obtained on payments made by the CMAR shall accrue to the Owner if (1) before making the payment, the CMAR included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the CMAR with which to make payments; otherwise, cash discounts shall accrue to the CMAR. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the CMAR shall make provisions so that they can be obtained.

§ 7.7.2 Amounts that accrue to the Owner in accordance with the provisions of Section 7.7.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.8 Related Party Transactions

§ 7.8.1 The term "related party" as used in this Agreement, shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with CMAR; any entity in which any stockholder in, or management employee of, the CMAR owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the CMAR.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the CMAR and a related party, the CMAR shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the CMAR shall procure the Work, equipment, goods or service from the related party as a Subcontractor. If the Owner fails to authorize the transaction, the CMAR shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of this Agreement.

§ 7.9 Accounting Records

CMAR shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the CMAR's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. CMAR shall preserve these records for such period as may be required by Law and Regulations, including without limitation, any Laws and Regulations regarding public records requests as may be necessary to effectuate any assignment of this Agreement to the

West Villages Improvement District, or such other agency, or the transfer of the SWWWRF to the City of North Port.

§ 7.9.1 Records to be available for Owner's audit shall include but not be limited to accounting records, written policies and procedures, contract and subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence invoices; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other supporting evidence deemed necessary to substantiate charges. These records shall be open to inspection and subject to audit and/or reproduction to the extent necessary to adequately permit evaluation and verification of the Cost of the Work, and any invoices, change orders, payments or claims submitted by the CMAR or vendor to any of his payees pursuant to the execution of the Agreement. This material shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations).

§ 7.9.2 If an audit or examination of the CMAR's records discloses overcharges (of any nature) by the CMAR then, at the Owner's option, either the CMAR shall immediately reimburse the Owner for such overcharge or the Owner may deduct the amount of such overcharges from amounts otherwise owed by the Owner to the CMAR.

ARTICLE 8. PAYMENT PROCEDURES.

§ 8.1 Pre-Assignment Progress Payments

§ 8.1.1 Prior to any assignment to a governmental entity provided in Section 11.2 of this Agreement, and based on Application for Payment submitted to the Engineer, the Owner shall make progress payments on account of the Contract Price to the CMAR as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 8.1.1.1 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - Exhibit E - from CMAR and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment.

§ 8.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 8.1.3 With each Application for Payment, CMAR shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Engineer to demonstrate that cash disbursements already made by CMAR on account of the Cost of the Work equal or exceed progress payments already received by the CMAR, less that portion of those payments attributable to the CMAR's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 8.1.4 Each Application for Payment shall be based on the most recent Schedule of Values submitted by the CMAR in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the CMAR's Fee shall be shown as a single separate item. The Schedule of Values shall be prepared in such form and

supported by such data to substantiate its accuracy as the Engineer may require. This schedule, unless objected to by the Engineer, shall be used as a basis for reviewing the CMAR's Applications for Payment.

§ 8.1.5 Applications for Payment shall show the percentage of actual completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 8.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the GMP allocated to that portion of the Work in the Schedule of Values;

.2 Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;

.3 Add the CMAR's Fee, less retainage of ten percent (10%). The CMAR's Fee shall be computed upon the Cost of the Work at the rate stated in Section 6.1 or, if the CMAR's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage of ten percent (10%) from that portion of the Work that the CMAR self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the CMAR in the documentation required by Section 8.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Engineer has withheld or nullified.

§ 8.1.7 CMAR shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 8.2 Post-Assignment Progress Payments

Prior to the effective date of the assignment of the Agreement pursuant to section 11.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding any other provisions of the Agreement and General Conditions, upon assigning this Agreement to the WVID or other agency pursuant to Section 11.2 herein, CMAR shall provide its Application for Payment to the WVID, which shall be delivered or mailed to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as **Exhibit K**. The Application for Payment shall include such supporting information as the WVID may reasonably require the CMAR to provide.

§ 8.3 Final Payment

§ 8.3.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the CMAR when:

.1 final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;

.2 CMAR furnishes a final accounting of the Cost of the Work and evidence satisfactory to Owner that there are no obligations, Claims or Liens for labor, taxes, contributions or other items in connection with the Work;

.3 CMAR and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as **Exhibit G**; unless the lien is attributable to the Owner;

.4 CMAR having delivered to Owner all as-built drawings showing the location of all improvements constructed on the Site required by Owner, West Villages Improvement District and City of North Port;

.5 CMAR having delivered to Owner a complete list of Subcontractors and Suppliers for the Work, including addresses and telephone numbers, sworn to by CMAR;

.6 CMAR having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;

.7 CMAR having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;

.8 CMAR having delivered to Owner consents of surety; and

.9 CMAR having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 8.3.2 Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 15.06 of the General Conditions. If CMAR fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner, Owner, in addition to all other rights and remedies available to it, will have the right to retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due CMAR. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due CMAR from Owner, or (ii) issue a written notice to CMAR reducing the Contract Price by an amount equal to that which Owner is entitled. If CMAR disputes any owner withholding under this section, CMAR shall have the right to pursue the dispute resolution provisions in Article 13.

ARTICLE 9. INSURANCE and BONDS.

§ 9.1 Insurance.

§ 9.1.1 For all phases of the Project, CMAR shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 9.1.1.1 CMAR shall, for the protection and benefit of the indemnitees, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of CMAR's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on **Exhibit H**, attached hereto and incorporated herein by reference. CMAR shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and

insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the additional requirements under this Article 9 and the Contract Documents.

§ 9.1.1.2 All deductibles under any insurance shall be paid by CMAR.

§ 9.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by CMAR pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to CMAR's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 9.1.2 The insurance required by this Section shall be endorsed by CMAR's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to CMAR's insurance:
"The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 9.1.3 Additional Insureds.
The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to CMAR's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of CMAR's and its Subcontractor's Work, during the CMAR's and/or Subcontractor's operations and following the CMAR's and/or Subcontractor's completed operations. CMAR shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

§ 9.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit H shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 9.1.5 Waiver of Subrogation.
CMAR and all Subcontractors shall waive their rights of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by CMAR and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 9.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit CMAR's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 9.1.7 Indemnification.
CMAR, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage to the extent caused by the negligent acts or omissions of CMAR, and other persons employed or utilized by CMAR in the performance of this Agreement or the services performed hereunder. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 9.1.8 Limitation on Governmental Liability.
Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

§ 9.1.9 Any aggregate limit under CMAR's liability insurance shall, by endorsement, apply to the Project separately.

9.2 Performance Bond And Payment Bond; No Lien Rights.
§ 9.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05, Florida Statutes, CMAR shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Project GMP and shall be in effect for a full year from the time of final completion of the Project. CMAR acknowledges that this Agreement may be assigned to the WVID and that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. CMAR shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond. Prior to the assignment of this Agreement from Owner to WVID, CMAR shall have all available lien rights.

§ 9.2.1.1 Owner will pay to CMAR as a Cost of the Work a rate of four tenths percent **(.40%)** of the penal sum of the bond. The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 9.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement; and

§ 9.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by CMAR under the Agreement; and

§ 9.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the CMAR under the Contract Documents; and

§9.2.1.5 That the CMAR's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 9.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 10. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and CMAR concerning the Work consist of the following:

§ 10.1 This Agreement.

§ 10.2 Exhibits to this Agreement:

A	PRECONSTRUCTION SCOPE OF SERVICES, dated September 13, 2017, 4 pages
B	CMAR Preconstruction Scope of Services and Indirect GMP Costs with Garney Policy Coverage Limits, 2 pages; West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP dated, September 27, 2017, 2 pages, and modified on November 17, 2017, 1 page; Estimate for West Villages –General Conditions, 2 pages
C	INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, 3 pages
D1	GMP1 (including exhibits D1-1 through D1-5)
D2	GMP2 Amendment (exemplar)(including exhibits (D2-1))
E	Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages
F	Form – Notice to Proceed, 1 page
G	Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages
H	Insurance Requirements
I	WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the

"General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested

J Request for Qualifications for Construction Manager at Risk (CMAR) Services For The Southwest Water Reclamation Facility (WRF), 15 pages

K Resolution 2016-22, West Villages Improvement District

L Resolution 2017-02, West Villages Improvement District

M Resolution 2016-21, West Villages Improvement District

N Form of Assignment and Assumption of Contract, with exhibits N-1 through N-3

O Addendum to Agreement Upon Assignment, with exhibits O-1 through O-4

P List of Permits Required for the Work Pursuant to 2.1.6.2

§ 10.3 The documents listed in this Article 10 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 10. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits K, L, M, N, O and D, the General Conditions, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 11. MISCELLANEOUS.

§ 11.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§11.2 Except as provided herein, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of CMAR, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. CMAR and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in **Exhibit N** (as Exhibit N-3), the Addendum to Agreement Upon Assignment attached and included in **Exhibit O**, and such other consents reasonably required to facilitate such assignment.

§ 11.3 CMAR binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 11.4 CMAR shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 11.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 11.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 11.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 11.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 11.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 11.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 11.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 11.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. CMAR understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, CMAR agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, Florida Statutes. CMAR acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the CMAR shall 1) keep and maintain public records required by the WVID to perform the service; 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the CMAR does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in CMAR's possession or, alternatively, keep, maintain and meet all applicable

requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the CMAR, the CMAR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CMAR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CMAR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 11.14 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at: Paul J. Erhardt, President
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamycorp.com

with copy to: Leslie C. Candes, Esq.
4901 Vineland Road
Suite 450
Orlando, Florida 32811
Email: leslie.candes@mattamyhomes.com

If to CMAR, at: Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 – office
(321) 229-7221- mobile
tbehler@garney.com

If to Engineer, at: Ashley M. Miele, P.E.
1777 Main Street, Suite 200
Sarasota, Florida 34236
Ashley M. Miele, P.E.
Email: Ashley.Miele@kimley-horn.com

§ 11.15 Consequential Damages

§ 11.15.1 Except as set forth in Section 11.15.2 below, none of the CMAR, the Owner, the WVID (upon an effective assignment), the engineer, nor their respective, officers, employees, and representatives, shall be liable for indirect, incidental, special or consequential damages.

§ 11.15.2 The consequential damages waiver set forth in Section 11.15.1 shall not impact the parties' rights or obligations under the Agreement regarding the payment of liquidated damages or any early completion bonus.

ARTICLE 12. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the CMAR as provided in Article 16 of the General Conditions.

ARTICLE 13. DISPUTE RESOLUTION

§ 13.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, Florida Statutes and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 13.2. Governing Law, Venue And Jurisdiction. The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: COO - Eastern Plant Operations
Date: March 9, 2018
State License No. CGC1515632
Expiration Date: 8-31-2018

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Name: Paul Erhardt
Title: Vice President
Date: March 9, 2018

EXHIBIT A
PRECONSTRUCTION SCOPE OF SERVICES

EXHIBIT A

PRECONSTRUCTION SCOPE OF SERVICES

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

September 13, 2017

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's preconstruction responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and Guaranteed Maximum Price (GMP) preparation. These services are separated into various tasks necessary to complete the overall scope of services.

Task #1 – 60% Design Task

a. Project Review Meeting: Participate in a team meeting to review the status of the site layout, design, and Owner's desired outcome of the project. One week prior to the meeting, the Owner will provide the latest set of design documents for review.

b. Construction Management Plan (CMP): CMAR will review existing facility drawings, as well as, visit the City of North Port WRF and the proposed SWWWRF site to evaluate existing conditions. The CMAR will assist with obtaining required permits, identification of long lead time equipment, and identification of partial GMP phases that can be initiated early.

c. Project Schedule: CMAR will prepare a detailed schedule to reflect all the activities necessary to complete the design of the project. The schedule will include permitting, all major material purchases, submittal activities, and address the final completion date.

d. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 60% design. CMAR will provide a report with observations, value engineering opportunities, owner direct purchase options, and recommendations. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings, evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

e. Cost Estimate: CMAR will prepare a construction budget estimate based on the design documents provided. Estimates will be reflect present market conditions and future market expectations at the time of construction for labor, material, etc. CMAR will prepare a cash flow projection for budgeting the finance needs for the project.

f. GMP: CMAR will develop an early GMP that will include the early solicitation and purchase of key equipment, materials, and construction activities needed to meet the project completion date.

1. CMAR will select the long lead items that could impact the Project schedule. For those items identified, CMAR will develop a detailed scope of supply, solicit vendors for pricing and delivery lead times, review proposals, and provide a detailed analysis for selection. The CMAR will negotiate the terms / conditions, final price, and delivery deadlines, along with preparing a detailed purchase order.

2. CMAR will prepare detailed bid packages for early completion activities, solicit and pre-qualify companies to submit proposals, hold prebid meetings and site visits, and review proposals.

3. CMAR will prepare GMP #1 that includes the cost of the long lead time equipment / materials, early bid package items, CMAR contingency, general conditions, bonds, insurance, and CMAR fee for District's review and approval by the Owner.

Task #2 – 90% Design Task

a. Project Schedule: CMAR will update the schedule to reflect the 90% design documents, along with incorporating all progress made to date. The status and progress of the long lead item procurement items and GMP #1 packages will be incorporated and updated in the schedule.

b. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 90% design. A report with observations, value engineering opportunities, and recommendations will be provided. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings. evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

c. Cost Estimates: CMAR will provide updated detailed cost estimates based on the 90% design. Detailed supporting documentation will be provided and presented in an "open book" format for the Owner to review. An updated cash flow projection will be provided for budgeting the finance needs for the project.

Task #3 – GMP Development

a. Bid Package Development: Based on the 90% design, CMAR will prepare bid packages for the various components of the project. The bid packages will include equipment procurement, sub-contractor bid packages, and self-perform bid packages.

b. Project Bidding: CMAR will solicit, prequalify, and issue bid packages to prospective bidders. CMAR will hold a prebid meeting and site tour in explain the project details, expectations, and familiarize each bidder with the existing site conditions.

c. Guaranteed Maximum Price (GMP): CMAR will review and evaluate each bid received for completeness and adherence to the project requirements. CMAR will prepare a GMP based these bids received, along with the CMAR contingency, bonds, insurance, general conditions, and CMAR fee for review and approval by the Owner.

d. Scheduling: CMAR will finalize a detailed schedule based on the input from proposed bidders. The schedule will be resource loaded to reflect the GMP. A final cash flow projection will be provided to match the GMP.

Permitting Services Included

The CMAR will apply for and obtain the following permits:

- FDEP NPDES SWPP Permit. The Engineer will provide the stormwater pollution prevention plan. The CMAR will apply for and obtain the permit.
- City North Port Building Department Permit. The Engineer will provide necessary information required for the City of North Port Building Permit application. The CMAR will apply for and obtain the permit.
- FDEP Dewatering Permit. The contractor will apply for and obtain the FDEP Dewatering Permit.

Deliverables (CMAR)

CMAR will provide Owner with the following deliverables:

- Design review report
- Value Engineering report with anticipated savings
- Detailed cost estimates
- Detailed resource loaded schedule
- Schedule of values
- Project cash flow projection
- Subcontractor & supplier bid packages
- Guaranteed Maximum Price (GMP) for construction of the project

Period of Service

This scope of services are based on the being completed over a 4 month period from September 2017 through January 2018, commencing upon the execution of the contract.

EXHIBIT B

PRECONSTRUCTION SCOPE OF SERVICES FOR WEST VILLAGES CONSTRUCTION, LLLP DATED, SEPTEMBER 27, 2017

EXHIBIT B

CMAR SCOPE OF SERVICES

Preconstruction Scope of Services

$135,000 Cost for the prescribed Preconstruction Scope of Services and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP.

Costs for geotechnical investigations required for design are by others.

Indirect GMP Items (Construction General Conditions)

$1,500,000 Cost of the prescribed Indirect GMP Items excluding permits.

- $1,425,000 – Lump Sum
- $75,000 – Allowance Items as stated below

$1,500,000 CMAR Fee will be fixed $1.5M lump sum and 6% on any cost over $25M total GMP

0.40% CMAR Bond Rate

0.15% CMAR Insurance

Price does not include trailer for design engineer use.

Price includes a Florida professional land surveyor for initial survey and establishing initial control that Garney will use for layout during construction. Price includes $15,000 allowance for a Florida professional land surveyor to aid in completion of the certified as-builts.

Costs for geotechnical investigations required for design are by others.

The costs for the following items can be adjusted once the scope is clarified by receipt of project plans and specifications:

- We have included $50,000 as a construction testing allowance; however, suggest testing be included within the various bid packages.
- This price includes a $10,000 allowance for maintenance of traffic.
- Per item "O" in Exhibit C of the Indirect GMP Items Scope of Services, the cost of construction permits will be included as a separate allowance. The amount will be determined in conjunction with the Owner.

Insurance costs are based upon Garney's standard coverage, limits and deductibles provided within the table below. We have not included any project-specific coverage (owner's protective policy, pollution and professional liability, builder's risk, etc.) because the insurance requirements mentioned in Item #4 were not provided. Due to the impact of Hurricane Irma on the insurance market and not having been provided the desired limits, deductibles, and perils for this project, we are unable to speculate on what these costs might be.

Pricing does not include a dedicated QA/QC engineer or Safety professional.

The indirect costs are based on substantially completing work 640 calendar days from the date of Notice to Proceed. Each additional month beyond then will be an extra $65,225 plus CMAR markups.

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits
Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal/Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

370 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

September 27, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for $135,000. If Garney's services are utilized for the Construction Phase, this amount will be reduced to $90,000 and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP. Additionally, we assumed costs for geotechnical investigations required for design are by others. Garney's insurance limits are attached.

Preconstruction Scope of Services

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

We look forward to working with you and the rest of the Kimley-Horn and West Villages Construction team to successful deliver this project. If you have any questions, please advise.

In agreement to the understanding stated above, both parties will begin working in good faith to complete the preconstruction services while final contracts are executed in the near future.

GARNEY COMPANIES, INC.

{Signature and Date} 10/2/2017

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

{Signature and Date} 10/2/17

Paul J. Erhardt
Vice President

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits
Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal/Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000



370 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

November 17, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the Preconstruction Services per the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for the lump sum of $135,000, payable 50% on December 1, 2017 and the remaining after Garney submits the GMP. Based upon our agreement the cost for preconstruction services will not be reduced as Garney's General Conditions, originally submitted as $1,300,000 will be reduced to $1,240,000.00. All other provisions of the original September 27, 2017 letter remain in force.

GARNEY COMPANIES, INC.

{Signature and Date}

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

{Signature and Date}

Paul J. Erhardt
Vice President

Estimate for West Villages - General Conditions
General Conditions
Prepared by: ECW
Addenda Noted:
Filtered Totals

Comments (Spec/Dwg)	Description	Quantity	Unit	Total MH	MH/U	Labor Unit	Labor Total	Materials Unit	Materials Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
	Garney Indirects															
	Project Manager	18.0	Mos	3114.0	173.000	10,396.63	187,139		0		0		0		0	187,139
	Senior / General Superintendent	18.0	Mos	3114.0	173.000	9,564.90	172,168		0		0		0		0	172,168
	Clerk / Jobsite Secretary	18.0	Mos	3114.0	173.000	3,027.50	54,495		0		0		0		0	54,495
	Project Engineer - Site	18.0	Mos	3114.0	173.000	5,323.08	95,815		0		0		0		0	95,815
	Project Engineer - Office	8.0	Mos	1384.0	173.000	5,323.08	42,585		0		0		0		0	42,585
	Business Development & Procurement	0.0	Ls	0.0		0	0		0		0		0	60,000	0	0
	Vehicle Allowances												FUEL		ALLOWANCE	
	Project Manager	18.0	Mos				0		0		0	450	8,100	1,050	18,900	27,000
	Project Engineer, Field Engineer	26.0	Mos				0		0		0	450	11,700		0	11,700
	Senior / General Superintendent	18.0	Mos				0		0		0	600	10,800	1,050	18,900	29,700
	Setup															
	Garney's Office	18.0	Mos	0.0	0.000	0.00	0		0		0	1,000	18,000		0	18,000
	Setup Garney Office	1.0	Ls	120.0	120.000	2,521.64	2,522	0.00	0	0.00	0	-	0	-	0	2,522
	Office Supplies	18.0	Mos				0		0		0		0	300	5,400	5,400
	Computer Equipment	1.0	Ls				0		0		0		0	1,500	1,500	1,500
	Network Setup	1.0	Ls				0		0		0		0	1,000	1,000	1,000
	Copiers/Fax Machines	18.0	Mo				0		0		0	500.00	9,000	100	1,800	10,800
	Postage	18.0	Mo				0		0		0		0	95	1,710	1,710
	Reproduction Services	18.0	Mo				0		0		0		0	50	900	900
	Garney Phone/T1/internet service	18.0	Mos				0		0		0		0	500	9,000	9,000
	Sanitary Facility	18.0	Mos				0		0		0		0	250	4,500	4,500
	Temp Power Utilities	18.0	Mos				0		0		0		0	500	9,000	9,000
Hookup	Temp Power Utilities	1.0	Ls				0		0		0		0	5,000	5,000	5,000
	Drinking Water	18.0	Mos				0		0		0		0	150	2,700	2,700
	Temporary Water to Trailers	1.0	Ls	40.0	40.000	840.55	841		0		0		0	1,500	1,500	2,341
	Photos	18.0	Mos				0		0		0		0	150	2,700	2,700
	Video Survey	1.0	Ls	0.0		0.00	0		0		0		0	500	500	500
	Project sign	1.0	Ea	16.0	16.000	336.22	336		0		0		0	1,000	1,000	1,336
	Spill Containment Facility	1.0	Ls	0.0		0.00	0		0		0		0	2,500	2,500	2,500
	Drug Tests	8.1	Ea				0		0		0		0	38	308	308
	Trash Haul	18.0	Mos				0		0		0		0	800	14,400	14,400
Item "J"	Project Layout	1.0	Ls	0.0		0.00	0		0	10,000.00	10,000		0		0	10,000
Item "K"	Construction Testing	1.0	Ls	0.0		0.00	0		0	50,000.00	50,000		0		0	50,000
	"Special Inspections"	1.0	Ls	0.0		0.00	0		0		0		0		0	0
Item "L"	As-Built Drawings	1.0	Ls	0.0		0.00	0		0	15,000.00	15,000		0		0	15,000
Item "M"	Traffice Maintenance	1.0	Ls	0.0		0.00	0		0		0		0	10,000	10,000	10,000

Estimate for West Villages - General Conditions
General Conditions
Prepared by: ECW
Addenda Noted:
Filtered Totals

Comments (Spec/Dwg)	Description	Quantity	Unit	Total MH	MH/U	Labor Unit	Labor Total	Materials Unit	Materials Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
Item "N"	Start-up and O&M Manuals	1.0 Ls		0.0		0.00	0		0		0		0		0	0
Item "O"	Permits (Garney to Pay For)	1.0 Ls		0.0		0.00	0		0		0		0		w/ GMP	0
	Labor Burden	1.0 Ls		0.0		0.00	0		0		0		0	439,162	439,162	439,162

BID TOTALS:	MHS	Labor	Materials	Subcontract	Equipment	Other	TOTAL
	14,016	555,901	0	75,000	57,600	552,379	1,240,880
Monthly GC's *(Allowances and fixed costs not included)*							$ 65,225

EXHIBIT C
INDIRECT GMP ITEMS

EXHIBIT C

INDIRECT GMP ITEMS

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

February 13, 2018

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up (Substantial Completion) no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's indirect guaranteed maximum price (GMP) responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and GMP preparation. Specific services will include but are not limited to the following tasks.

Item #1 – General Conditions

a. Project Personnel: The CMAR shall provide qualified personnel for all positions, on-site and home office, full time and part-time, as necessary to manage the project site, including subcontractors and vendors, and administer the project to complete the construction project. At a minimum, the CMAR will provide a Project Manager, Project Superintendent, and a Project Engineer. These personnel shall be located on-site in the CMAR's field office full time for managing, coordinating, and directing all construction, administrative, and field activities. In addition, the CMAR shall provide personnel to assist with procurement, submittal reviews, cost estimating, scheduling, safety, quality control, clerical, and any other duties necessary to ensure all activities are performed in a timely and satisfactory manner. The CMAR shall include all labor burden, other payroll charges, travel costs, per diem charges, and all other costs necessary to support project personnel.

b. Temporary Facilities: The CMAR shall provide jobsite/field offices for on-site CMAR personnel to include all furniture, equipment, electric, HVAC, water service, sewer service, computer equipment, copiers, printers, internet service, office supplies and paper products, postage, shipping, document reproduction, lighting, telephone / internet service, and other appurtenances necessary to manage

and administer the Project.

c. Temporary Utilities: The CMAR shall provide installation, set-up, cleaning, and removal for all temporary facilities needed for the project. The temporary utilities shall include temporary electric, toilet facilities, potable water, monthly costs of all services and utilities, supplies and chemicals, and temporary electric service.

d. Site Security: The CMAR shall provide all site security to include personnel, temporary fencing, structures, and related facilities necessary to protect the construction site from damage and theft, including non-construction hours.

e. Safety: To include safety meetings, supervision, equipment, and devices necessary to provide a safe environment for all on-site personnel including Owner's personnel.

f. Housekeeping: To include labor, dumpsters, and all necessary appurtenances to provide clean-up throughout the duration of the project and clean-up at the end of the project.

g. Construction Material Waste Disposal: To include the timely removal and disposal of all construction debris.

h. Construction Photographs: To include monthly aerial photographs and construction progress photographs to effectively document the work in progress.

i. Project signs: Provide one (1) project sign 4' x 8'.

j. Project Layout: Provide survey services to establish benchmarks and control points necessary to layout and construct the project improvements.

k. Construction Testing: The CMAR shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents. The testing results shall be provided directly to the Owner's representative and Engineer throughout the Project. The CMAR shall be responsible for the costs of any retesting of failing components as identified by the independent testing laboratory. Material sampling and testing shall be in accordance with ASTM standards and the FDOT Standard Specifications for Road and Bridge Construction, latest edition, unless otherwise noted.

l. As-built Drawings: The CMAR shall provide surveyed as-built record drawings, prepared and certified by a professional land surveyor, documenting the horizontal and vertical location of all site improvements including paving, grading, drainage, underground utility construction, tank and weir elevations, top of well casing, and any other Project information to completely and accurately document the as-constructed condition of the Project. The as-built drawings shall include weekly submission of construction plan redline markups to the Engineer documenting actual construction progress.

m. Traffic Maintenance: The CMAR shall be responsible, during the course of construction, for proper maintenance control and detour of traffic in the area of construction. Traffic control and

Maintenance shall be in conformance with the Manual of Traffic Control and the FDOT Standard Index (600 Series). The Public shall, at all times, be protected by barricades, flashers, flagmen, and other safety devices as needed. All safety precautions shall be taken and all traffic controls shall be furnished, satisfactory to City, County, Department of Transportation, and/or any other governmental agency having jurisdiction, where partial or complete obstruction of streets is required for the performance of the work.

n. Start-up and O&M Manuals: To include all services necessary to coordinate with vendors and contractors to start-up and place equipment into service, including provision of training to Owner's personnel and video taping of training events. Also to include hard copies and electronic copy of all necessary O&M manuals for all equipment installed, started-up, modified and/or provided.

o. Permits: CMAR shall obtain and pay for all construction permits, licenses, inspection fees, and governmental charges necessary for the prosecution of the Work. All permitting fees and other permitting costs paid for by the CMAR will be included as an allowance in the GMP.

Item #2 – CMAR's Fee

The CMAR shall provide the percentage (%) fee that will be used to determine the CMAR's fee based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #3 – Bonds

The CMAR shall provide the percentage (%) to provide performance and payment bonds as required by the contract agreement. The % cost will be used to determine the bond cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #4 – Insurance

The CMAR shall provide the percentage (%) to provide insurance as listed on the attached insurance form. The % cost will be used to determine the insurance cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Period of Service

This scope of services is based on the Project being completed over a period from March 2018 through December 2019, with construction commencing upon the execution of the notice to proceed.

EXHIBIT D1
GMP1

PROJECT NAME: WEST VILLAGES WRF 90% DESIGN BUDGET

GMP-1 WORK		
G1-010	Sitework and Site Utilities	1,370,000
	Contingency for Site Work	50,000
	Temporary Water Service	22,000
G1-020	Deep Injection and Monitoring Wells incl. Bond	NOT IN CONTRACT
G1-030	Prestressed Tanks	1,670,205
G1-040	Furnish Electrical Gear	1,062,807
G1-050	Furnish Generator	658,310
G1-060	Furnish Process Equipment	4,201,210
G1-070	Filters, Chlorine Contact, and Effluent Pump Station	4,031,113
	Owners Direct Purchase (ODP)	-338,861
	Watermain connection at US41	19,580
	Allowance for Forcemain connection at US41	135,000
	Maintenance of Traffic Allowance	10,000
	As-Built Survey Allowance	15,000
	Construction Testing Allowance	50,000
	Building Permit & Utility Inspection Fee	100,000
	Allowance: Assist Contract with Well Driller	100,000
	CMAR GCs	260,000
INDIRECT COSTS GMP-1		
0.15%	CMAR Insurance	21,458
0.40%	Payment & Performance Bond	57,220
6%	Construction Fee, 6%	809,703
GMP-1 TOTAL		**14,304,745**

Cover Letter

As described by its Preconstruction Services Agreement with West Villages, Garney Construction (Garney), has requested subcontractor bids and compiled an estimate for all work associated with the first phase of work for the Southwest Water Reclamation Facility. Accordingly, Garney offers the following Guaranteed Maximum Price (GMP-1) for the first phase of work described by the bid documents, and otherwise described by the Agreement.

For the Guaranteed Maximum Price of $14,304,745

Garney has included an Owner's contingency for GMP-1 in the amount of $460,000.00, which includes allowances for the items listed below.

a. Forcemain Connection @ US41: $135,000
b. Sitework: $ 50,000
c. Traffic Maintenance: $ 10,000
d. As-Built Survey: $ 15,000
e. Construction Testing: $ 50,000
f. Permit & Inspection Fees: $100,000
g. Assist Contract with Well Driller $100,000

GMP-1 includes cost for performance and payment bonds, insurance, general conditions, construction administration costs, and construction management fee. Builders Risk Insurance is excluded and agreed to be the responsibility of West Villages per the Agreement.

Garney will serve as the CMAR, furnishing construction administration and management services and will use the CMAR efforts to perform the Work in accordance with the Contract Documents.

The Work is generally described as Sitework, Site Utilities, Prestressed Tanks, furnish Electrical Gear, furnish Generator, furnish Process Equipment, and installation of the Filters, Chlorine Contact Chamber, and Effluent Pump Station. A more detailed summary of work is described in Section 1.

This proposal is based on a Notice to Proceed date of March 1st, 2018.

Should you have any question, comment, or wish to discuss any of the above in greater detail, please feel free to contact us immediately.

Section 1: GMP #1

Reference the attached GMP #1 summary table for costs associated with each scope item.

SCOPE NARRATIVES

G1-010: Sitework and Site Utilities

a. Clear and grub project site within limits of construction.
b. All surveying required for GMP-1 scope of work.
c. Furnish and install erosion control devices in accordance with the Contract Drawings. Work includes silt fence, temporary construction entrance, inlet protection, sod around ponds, and sod at perimeter slopes.
d. Maintain erosion control devices and provide dust control as needed.
e. Excavate and grade ponds. Pond B-01 will be enlarged as necessary to provide additional fill material to build-up the project site.
f. Backfill and compact project site from existing grade to approximate final grade using only material excavated from ponds or from structure excavations.
g. Prepare subgrade at Reject Storage Tank including slab stone and access road around tank.
h. Backfill Reject Storage Tank to final grade.
i. Install temporary access roads and site staging area.
j. Furnish and install 12” DR25 PVC force main from the south side of US 41 to the first vertical bend upstream of the influent flow meter.
k. Furnish and install 8” DR18 PVC water main, fire hydrants, and 1” tap for service to the Control Building.
l. Furnish and install 8” DR14 PVC fire main and backflow assembly with FDC.
m. Furnish and install sanitary sewer system. Work includes all sanitary sewer manholes, installation of the Site Lift Station manhole, and all sewer piping to within ten feet of buildings.
n. Furnish and install storm drain system complete including all inlets, outlets, bubblers, culverts, and control structures. RCP pipe shall be Class III and HDPE pipe shall be ADS-N12.
o. WORK TO BE INCLUDED IN GMP2: asphalt paving, site concrete, landscaping, irrigation, littoral shelf, final grading, final sodding, site restoration, pond fountains, security fence, force main and water main tie-ins at US41, all yard pipe not noted herein
p. GMP-1 includes a $50,000 allowance for unforeseen conditions and future design improvements associated with the sitework. The allowance is intended to cover the following:
    - Rock Excavation
    - Undercut & Replace Unsuitable Soils
    - Additional Clearing to enlarge Bond B-01
    - Additional Silt Fence to enlarge Pond B-01
    - Additional Sodding to enlarge Pond B-01
    - Modify 12” Influent Force Main for future Connection

Section 3: Clarifications & Assumptions

The following clarifications and assumptions were used to develop the estimate for GMP-1.

General Items

1. GMP-1 material and subcontractor pricing is based on proposals from vendors and subcontractors. Material pricing is based on industry standard materials unless specifications were provided.
2. Sales tax has been included on all materials including Owner Direct Purchase. The tax savings for the ODP scope is provided as a deduct.
3. Electrical Permit Fees are Excluded (Carried with Building Permit)
4. Power Utility Development Charges for Permanent & Temporary Power are not included with GMP 1. The Electrical Engineer has recommended an allowance of $75,000 be set aside for this scope.
5. Generator Rental and Fueling for Temporary Power requirements prior to Line build out are NOT included.
6. Price does not include the Wrap-Up GL Policy
7. Wage rate calculations are included at the end of Section 6.

G1-010 – Sitework & Utilities

1. Assumed no rock excavation will be required.
2. Assumed 12” of under slab stone subgrade prep at all structures.
3. The entire influent force main is 12” diameter.
4. The 12” force main and 8” water main will be restrained per the Restrained Joint Tables for PVC shown on drawing C-23.
5. The storm drain system will be modified per drawings sent to Kimley-Horn on 1/26/18.
6. Elevations for the Site Lift Station shown on drawing M-17.1 will be as follows: T = -2.0’, Y = 8.0’, Z = 0.0’
7. IET liner system is included with the Site Lift Station and first manhole upstream of the lift station. No other special coatings for manholes are included.
8. No specifications were provided for Division 02. All sitework is assumed to be per the contract drawings, industry standards, and the draft geotechnical report dated 12/26/17.
9. Assumed using all onsite material for topsoil and structural backfill. No import fill costs are included. All fill material for the project site will be excavated from structures and ponds B-01, B-02, and B-03.
10. Pond B-01 will be enlarged to the south as necessary to provide additional fill. The enlarged pond will not affect any permits, easements, or adjacent properties. Additional clearing, silt fence, and sodding required for the larger pond will be paid for out of the Sitework Contingency.

G1-020 – Injection & Monitoring Wells

1. This scope is not in our Contract.

G1-030 – Prestressed Tanks

1. See analysis sheets in Section 5 for scope clarifications.

G1-040 – Furnish Gear Package

1. Schneider (Square D) gear package is the low-priced supplier for this project. Garney is waiting on final updates from Rexel which is providing quotations on the Cutler Hammer and Allen Bradley changes. Both proposals include equipment from the 98% Electrical documents. All VFD's are supplied as 6 Pulse VFD's with filters.
2. Garney has recently received updated Electrical Drawings on 2/9/18. Changes to the selected Gear Equipment will be updated within GMP 2.
3. Electrical Subcontract package will be complimentary to the gear scope and be responsible for reviewing shop drawings, unloading, storing, and installing equipment under this item.
4. If West Villages LLC proceeds with the "Owner Direct Purchase Program", Garney will provide a recommended PO to execute with the selected Gear manufacturer.
5. Rexel has requested using their own terms and conditions. Schneider has requested a few changes to be incorporated with the Garney terms and conditions.
6. Instrumentation and Control Estimates are included with GMP 2.
7. Electrical Subcontract Package is included with GMP 2.

G1-050 – Furnish Generator

1. Generator supply is specific to purchasing the Genset unit and ATS. All handling and installation of this equipment will be included in GMP 2.

G1-060 – Furnish Process Equipment

1. All gates will be provided with manual gate operators
2. All process equipment will be provided per the specifications unless as noted in correspondence with Kimley-Horn

G1-070 – Filters, Chlorine Contact, and Effluent Pump Station

Division 3 – Concrete

1. Reinforcing Steel Quantity based on 250 pounds/CY.
2. Rebar pricing based on current conversations with suppliers and installers.
    a. Furnish Rebar $850.00 / Ton
    b. Install Rebar $500.00 / Ton
    c. $175,418 rebar allowance included in GMP.1 (not including sales tax)
    d. A final adjustment will be made following bidding of Structural reinforcing steel requirements within GMP 2.
3. Structural Concrete is based on Hillsborough County Design Build project specs as e-mailed to Kimley-Horn on 1/31/2018 (attached).
4. Filter, Chlorine Contact/Effluent Pump Station structure concrete take-off is based on the red-lined markup sent to us by Kimley-Horn. All other structures are based on the mechanical drawings provided by Kimley-Horn.

Division 5 – Metals

1. Miscellaneous metals (walkways, platforms, supports, grating, stairs, hatches, etc.) were assumed to be aluminum.
2. Miscellaneous metals takeoff is based on the mechanical drawings. Structural requirements are not yet detailed, therefore member sizes, spacing, connection details, and other specifics were all assumed.
3. Assumed hose stations will be racks not hose reels.
4. Access hatches are based on standard Halliday products.

Division 15 – Yard Piping and Process Piping

1. Ductile Iron Yard Piping is based on the following:
    a. Minimum Pressure Class (PC) will be supplied for all Ductile Iron Pipe.
        i. 4” – 12” = PC 350
        ii. 14” – 20” = PC 250
        iii. 24” = PC 200
        iv. 30” = PC 150
    b. Restrained joints are per Kimley-Horn restrained joint tables shown on drawing C-23. Restrained joints are only included on pumped lines.
    c. Fitting are mechanical joint with Megalug type restraints.
    d. P401 pipe lining: Plant influent through Clarifier Influent, RAS, WAS, Scum, Grit.
    e. Cement Lining: Clarifier Effluent through Plant Effluent.
    f. Specific yard piping materials based on standard practice. No specifications available.
2. Yard piping included is based on current piping shown on P&ID and plan drawings.
3. Valve & operator types are based as shown on P&ID drawings.
4. All Check valves are outside lever and weight type.
5. Concrete thrust blocks are not included.
6. Poly wrap bagging included for ductile iron piping systems. Cathodic protection not included.
7. Deep trench safety design included where required.
8. Pipe bedding 6” below ductile iron pipe included. Crushed rock or similar bedding included.
9. No CLSM – flow fill bedding or backfill included.
10. Figured sufficient acceptable native soil for pipe trench backfill above pipe zone available on site. No import of soil included for backfill.
11. Wax tape wraps at buried flange bolts or coupling restraint rods are not included.
12. Trench dewatering included based on water elevations from soils report.
13. Pipe sleeve and pipe supports are hot dip galvanized, stainless steel not included.
14. Mechanical Joint sleeves for piping connections at structures are included.
15. Encasement of process piping below slabs is included.
16. Galvanized flange accessory bolts included at flanged connections.

G1-020: Deep Injection and Monitoring Wells

a. Installation of wells is not in our contract.
b. GMP-1 includes a $100,000 allowance for additional work associated with the removal of the Deep Injection Well subcontract. The allowance is intended to cover the following
    - Furnish, install and maintain silt fence for laydown area.
    - Clear, strip topsoil, install stone for laydown area.
    - Remove stone, silt fence, spread topsoil and seed laydown area upon completion of well.
c. WORK TO BE INCLUDED IN GMP2: concrete pad, well head piping, electrical, instrumentation & controls

G1-030: Prestressed Tanks

a. Work noted below is for the Secondary Clarifiers and Reject Tank
b. Excavation, dewatering, and slab stone
c. Furnish and install underslab piping and encasement
d. Furnish and install tank slabs, walls, and troughs
e. Paint Tank interior with two coats of TNEMEC 156 or equal
f. Paint Tank exterior with two coats of TNEMEC 66 or equal
g. WORK TO BE INCLUDED IN GMP2: miscellaneous metals, coatings (unless otherwise noted), pipe, equipment, electrical, instrumentation & control, startup / testing and final site cleanup.

G1-040: Furnish Electrical Gear

a. Furnish the following equipment in accordance with Division 16 Specifications including factory testing, spare parts, and field services:
(4) Main Breakers, (4) Switchboards, (4) Motor Control Centers, (2) Power Panels, (5) Lighting Panels, (4) Lighting Contactors, (3) 45 kVA Transformers, (1) Mini Power Zone with Transformer, (8) Variable Frequency Drives, disconnect switches, shunt trips, and off/remote switches.
b. The Owner has the option to direct purchase this equipment.

G1-050: Furnish Diesel Engine Generator

a. Furnish diesel engine generator per Section 16216 including factory testing, spare parts, and field services.
b. The Owner has the option to direct purchase this equipment.

G1-060: Furnish Process Equipment

a. Furnish equipment listed below including factory testing, spare parts, and field services. The Owner has the option to direct purchase this equipment.
b. Section 11130 – Odor Control Equipment
c. Section 11200 – Screening Washer
d. Section 11201 – Grit Removal Equipment
e. Section 11203 – Mechanical Fine Screens
f. Section 11204 – Sluiceway (U-Trough)
g. Section 11300 – Chemical Storage Tanks

h. Section 11301 – Chemical Metering Pumps
i. Section 11400 – Secondary Clarifier Equipment
j. Section 11401 – Screw Centrifugal Pumps
k. Section 11402 – Submersible Chopper Pumps
l. Section 11500 – Fine Bubble Diffusers
m. Section 11501 – High Speed Turbo Blowers
n. Section 11503 – Horizontal Dry Pit Pumps
o. Section 11550 – Coarse Bubble Diffusers
p. Section 11551 – Positive Displacement Blowers
q. Section 11552 – Decant System
r. Section 11600 – Gravity Filter System
s. Section 11601 – Vertical Lineshaft Pumps
t. Section 11700 – Centrifuge Package
u. Section 11800 – Fabricated Gates
v. Section 11900 – Submersible Pumps

G1-070: Filters, Chlorine Contact, and Effluent Pump Station

a. Excavation, dewatering, slab stone, and backfill
b. Furnish and install underslab piping and encasement
c. Furnish and install all concrete and reinforcing
d. Furnish and install metal stairs, handrail, hatches, and grating
e. Furnish and install all piping within five feet of structures – see drawing within proposal
f. Prepare subgrade at the Clarifiers.
g. Backfill Clarifiers to final grade.
h. Install equipment and inline instruments
i. Startup and testing.
j. WORK TO BE INCLUDED IN GMP2: coatings, electrical, inst. & control, exterior piping and site pads

Section 5: Sub & Supplier Bid Packages

The following quotes were received for work associated with GMP-1 and are attached for reference.

G1-010: SITEWORK & SITE UTILITIES

G1-030: PRESTRESSED TANKS

G1-040: FURNISH ELECTRICAL GEAR

G1-050: FURNISH DIESEL ENGINE GENERATOR

G1-060: FURNISH PROCESS EQUIPMENT

EXHIBIT D2
GMP2 AMENDMENT

GMP2 AMENDMENT (EXEMPLAR)

This GMP2 Amendment (the or this "GMP2 Amendment") is made to the Agreement Between Owner and Construction Manager (where the construction manager is also the constructor) (the "Agreement" or "Contract"), by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor"). All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement, the mutual covenants and agreements contained therein and in this GMP2 Amendment, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

ARTICLE A.1

§A.1.1 Guaranteed Maximum Price

Pursuant to Sections 2.1.5.2, 2.2.1.2, and 2.2.6 of the Agreement, the Owner and CMAR hereby amend the Agreement to establish the Guaranteed Maximum Price for the entire Work of the Project. As agreed by the Owner and CMAR, the Guaranteed Maximum Price is an amount that the Contract Price shall not exceed. The Contract Price consists of the CMAR's Fee plus the Cost of the Work, as that term is defined in Article 7 of the Agreement.

§ A.1.1.1 The Contract Price is guaranteed by the CMAR not to exceed _____ ($_____), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Attached to this GMP2 Amendment as **Exhibit D2-1** is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the Guaranteed Maximum Price.

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

_____
_____
_____
_____
_____.

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:

Item	Price ($0.00)

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

_____
_____
_____
_____
_____.

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)
« »

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)
« »

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:

_____
_____
_____
_____
_____.

{signature page follows}

IN WITNESS WHEREOF, the parties hereto have caused this GMP2 Amendment to be executed effective upon issuance of the date last executed below (the "Effective Date").

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: _____
Title: _____
Date:_____
State License No._____
Expiration Date:_____

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Name: _____
Title:_____
Date:_____

EXHIBIT D2-1

(*itemized statement of the GMP organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the GMP*)

EXHIBIT E

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that:

1. Affiant is the _____ of **GARNEY COMPANIES, INC.**, a Missouri corporation d/b/a **GARNEY CONSTRUCTION** (the "CMAR").

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the CMAR; and (b) the facts stated herein are true and correct.

3. Pursuant to a contract between West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and CMAR dated _____ (the "Contract"), the CMAR has been engaged to furnish labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____{*insert property description*}_____ (the "Property").

4. The CMAR has submitted a current Application for Payment to Owner in connection with this Release.

5. As of the date of this Release, the CMAR has performed, or caused to be performed, all of the work shown on the current Application for Payment submitted to Owner.

6. Upon receipt from Owner the payment in the amount of $_____, the CMAR hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract.

7. Attached hereto as **Exhibit E-1** is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit E-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of CMAR's activities pursuant or ancillary to the performance of its Contract with the Owner.

8. The CMAR hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through _____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract.

9. The CMAR further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the CMAR hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the CMAR's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit E-1 (if any).

10. This Release constitutes a representation by the CMAR that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The CMAR hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release.

11. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a **GARNEY CONSTRUCTION**

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)

_____
Printed Name:_____
NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

Exhibit E-1

EXHIBIT F
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP

19503 S. West Villages Parkway, #14
Venice, Florida 34293

*{insert date}*, 2018

VIA EMAIL to tbehler@garney.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

Timothy M. Behler, Chief Operating Officer
Garney Companies, Inc.
370 E. Crown Point Road
Winter Garden, FL 34787

Re: **NOTICE TO PROCEED**/Construction of the Southwest Wastewater Reclamation Facility ("SWWWRF") located within the West Villages Improvement District ("WVID")

Dear Mr. Behler:

Pursuant to Section 2.3.1.2 of the _____*{insert date}*_____Agreement between West Villages Construction, LLLP ("Owner") and Garney Companies, Inc. ("CMAR") (the "Agreement"), this letter hereby serves as Owner's **Notice to Proceed** the Construction Phase as such term is provided in the Agreement.

Sincerely,

Paul J. Erhardt, President

cc: Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT G

FINAL AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that:

1. Affiant is the _____ of **GARNEY COMPANIES, INC.**, a Missouri corporation d/b/a **GARNEY CONSTRUCTION** (the "CMAR"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the CMAR.

2. Pursuant to a contract dated _____, 20__ (the "Agreement"), between West Villages Construction, LLLP, a Florida limited liability limited partnership and CMAR, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the CMAR has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The CMAR represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit G-1** (if any), attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner/Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit G-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the CMAR and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, CMAR hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the CMAR hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

10. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, related to the Property. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims to any other person or party.

DATED on _____, 201_.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a **GARNEY CONSTRUCTION**

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name:_____
NOTARY PUBLIC
(Notarial Seal) Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

Exhibit G-1

EXHIBIT H
INSURANCE REQUIREMENTS

EXHIBIT H
INSURANCE REQUIREMENTS

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CMAR INSURANCE REQUIREMENTS. All capitalized terms shall have the same meaning ascribed to them in the Agreement and General Conditions.

1. Owner shall purchase and maintain the following insurance policies and coverage with at the following minimum limits during the term of this Agreement and, as provided herein:

    a. Builders Risk "all-risks" completed value or equivalent policy form and sufficient to cover:

        i. The total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

        ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Engineer's and CMAR's services and expenses required as a result of such insured loss.

        iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include CMAR's or any Subcontractors machinery, tools or other equipment).

2. CMAR shall purchase and maintain the following insurance and required coverage with at least the following minimum limits as provided herein and in the Agreement and General Conditions:

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits

Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal/Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

a. Umbrella/Excess Liability Insurance: Coverage shall be in excess of General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The CMAR shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that CMAR procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees.

b. Contractor's "General Liability" policy shall be a policy pursuant to Section 6.03 of the General Conditions.

EXHIBIT I

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS



This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.

3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

5. *Bidder*—An individual or entity that submits a Bid to Owner.

6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.

7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.

8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

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regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor or CMAR*—The individual or entity with which Owner has contracted for performance of the Work. Contractor shall have the same meaning as CMAR as provided in the Agreement.

17. *Cost of the Work*—See Paragraph 13.01 for definition.

18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.

20. *Engineer*—The individual or entity named as such in the Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and

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the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.

26. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.

27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

31. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.

32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.

33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.

35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

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36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

42. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

44. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

46. *Unit Price Work*—Work to be paid for on the basis of unit prices.

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47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*:

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*:

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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E. *Furnish, Install, Perform, Provide*:

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

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2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

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C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

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supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

   a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

   b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

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after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be

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responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be entitled to an adjustment in the Contract Times and Contract Price for the actual extended General Conditions/General Requirements costs, and site operated equipment durations, and material cost increases for materials directly purchased by Contractor or any of its Vendors, Subcontractors or sub tier subcontractors. Except as specifically provided in the preceding sentence, Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

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3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its GMP and Progress Schedule. Owner will notify Contractor of any known encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility

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for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota

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County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the

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Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors, or time required for, performance of the Work; subject, however, to the following:

   a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:

   a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or

   b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

   c. Contractor failed to give the written notice as required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

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5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;

b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;

c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and

d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

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E. *Possible Price and Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors or time required for, performance of the Work; subject, however, to the following:

   a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

   b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;

   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and

   d. Contractor provided notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times or Contract Price, or both, then any such adjustment shall be set forth in a Change Order.

3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times or Contract Price, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of available insurance with an aggregate of Five Million and No/100 Dollars ($5,000,000) Owner shall

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indemnify, defend and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, and up to the amount of Five Million and No/100 Dollars ($5,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:

1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.

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3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply will all bond requirements after any assignment of the Agreement pursuant to Section 11.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit O to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and

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documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.

2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).

3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

4. Foreign voluntary worker compensation (if applicable).

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B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
    a. Such insurance shall be maintained for three years after final payment.
    b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

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of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by

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Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

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G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

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7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

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2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) it has a proven record of performance and availability of responsive service; and

4) it is not objectionable to Owner.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Cost of the Work. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

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3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

    a. shall certify that the proposed substitute item will:

        1) perform adequately the functions and achieve the results called for by the general design,

        2) be similar in substance to that specified, and

        3) be suited to the same use as that specified.

    b. will state:

        1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,

        2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

        3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

    c. will identify:

        1) all variations of the proposed substitute item from that specified, and

        2) available engineering, sales, maintenance, repair, and replacement services.

    d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

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I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

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7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Springs Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 11.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit O), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

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7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

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7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

   a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

   b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

   c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

   d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

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B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

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5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

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C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal;
6. the issuance of a notice of acceptability by Engineer;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of Ten Million and No/100 Dollars ($10,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, Florida Statutes, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, Florida Statutes, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor,

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any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except

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design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. an itemization of the specific matters to be covered by such authority and responsibility; and

3. the extent of such authority and responsibilities.

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B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and

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other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

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9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the

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responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by

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Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

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11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

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b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of

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such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event

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giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

A. See Agreement, Article 7.

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13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the GMP to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Notwithstanding any provisions regarding shared savings, any unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;

2. there is no corresponding adjustment with respect to any other item of Work; and

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3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

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E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of

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defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are

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stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing

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Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

    a. the Work has progressed to the point indicated;

    b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

    c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

    a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

    b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

    a. to supervise, direct, or control the Work, or

    b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

    c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

    d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

    e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

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6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

    a. the Work is defective, requiring correction or replacement;

    b. the Contract Price has been reduced by Change Orders;

    c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

    d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

    e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*:

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

    a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

    b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

    c. Contractor has failed to provide and maintain required bonds or insurance;

    d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

    e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

    f. the Work is defective, requiring correction or replacement;

    g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

    h. the Contract Price has been reduced by Change Orders;

    i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

    j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

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k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within three (3) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch

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list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.

2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

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15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*:

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents;

b. consent of the surety, if any, to final payment;

c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

d. a list of all disputes that Contractor believes are unsettled; and

e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work, except to the extent a Lien is attributable to Owner.

3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance*:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

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C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;

2. correct such defective Work;

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item

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may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and

2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

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D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate

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the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and

2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or

2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or

3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

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18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner, Contractor, nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to each other for any claims, costs, losses, or damages sustained by each other on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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EXHIBIT J

REQUEST FOR QUALIFICATIONS FOR CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES FOR THE SOUTHWEST WATER RECLAMATION FACILITY (WRF)

Request for Qualifications (RFQ)

For

Construction Manager at Risk (CMAR) Services

For

The Southwest Water Reclamation Facility (SWWWRF)

Statements of Qualifications Due
Tuesday August 29th, 2017

RFQ for CMAR Services
for
The Southwest
Water Reclamation Facility (WRF)

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Appendix – SOQ Forms (A1-A7)

I. Introduction

Based on projected wastewater needs of the West Villages (WV) and proposed revised effluent standards, a new water reclamation facility (WRF) must be constructed and on-line no later than June 30, 2019 to maintain the WV development program. West Villages is seeking Statements of Qualifications (SOQs) from qualified firms (Proposers) offering Construction Manager at Risk (CMAR) services for the Project. Services will include design review of structural, mechanical, plumbing, electrical, architectural, site/civil, instrumentation, and process treatment facilities during the design phase; value engineering and constructability review / input; preliminary construction estimating and scheduling; management of project bidding; selection of sub-contractors; development of guaranteed maximum price (GMP) contracts; oversight/management of construction; and coordination with project engineering and the WV's project management staff.

The Project schedule is critical. Construction must be complete by May 31, 2019 and the WRF must be operational by June 30, 2019.

II. Scope of Work

The facilities to be constructed for the Southwest WRF (SWWRF) are described in the attached Preliminary Design Report (PDR), dated March 31, 2017. The SWWRF will generally consist of the following facilities:

1. Headworks – consisting of mechanical screening and grit removal.
2. A Modified Ludzack-Ettinger (MLE) treatment process – consisting of two 1.0 MGD treatment trains that include anoxic and aeration basins, submersible mixers, fine bubble aeration, dissolved oxygen (DO) control and ammonia monitoring systems, and an internal mixed liquor recycle (IMLR) pumping system.
3. Secondary clarification facilities – consisting of circular scraper type secondary clarifiers with dual skimmers and full radius scum removal, return activated and waste activated sludge (RAS and WAS) pumping systems, and scum pumps.
4. Deep bed sand filters – consisting of sand filtration and controls, and providing for the ability to convert the filters to denitrification filters should the need arise in the future to meet more stringent nitrogen limits.
5. High level disinfection – consisting of liquid sodium hypochlorite (NaOCl) disinfection with metering pumps and dual chlorine contact chambers.
6. Effluent transfer pump and deep injection well pump stations.
7. Reclaimed water high-service pump station.
8. A 2.0 MG prestressed concrete reject ground storage tank.
9. Onsite sanitary lift station.

10. Process Buildings:
    a. Blower building consisting of high speed turbo blowers and controls for the aeration system.
    b. Chemical storage (NaOCl).
    c. Solids handling.
    d. Motor Control Center (MCC) buildings.
11. Operations Building – consisting of offices, break room, restrooms/showers, process laboratory, and other miscellaneous rooms as generally described in the PDR.

III. Construction Manager at Risk (CMAR) Scope of Services

The specific CMAR scope of services will be completely defined in the final CMAR Service Agreement. A draft Service Agreement will be provided under a separate cover. Services to be provided will generally consist of the following:

Pre-construction

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

Construction Services

- Manage the construction process including coordination of all subcontractors, vendors, and equipment suppliers
- Manage equipment start-up and testing, assist the operations staff while placing the facility into operation, provide construction close-out documents including Operations and Maintenance Manuals, and provide as needed services during the post-construction warranty period.
- Prepare and manage the Project schedule and provide weekly detailed updates

- Establish and maintain all quality control standards
- Establish and enforce a Project-wide construction safety program

IV. General Requirements

All questions from Proposers are to be directed to the Engineer contact identified in Section IX - Contacts/Further Information.

Each Proposer is required to submit the following information on or before August 14, 2017 in a sealed box or envelope clearly labeled "Southwest Water Reclamation Facility CMAR Statement of Qualifications" to the WV.

1. Four bound hardcopies of SOQs
2. One electronic copy (CD or USB Flash Drive) of the complete SOQ in PDF format

V. Contents of SOQs

Each SOQ should include the following items in the order listed. SOQs not meeting the minimum qualifications herein could result in a rejection, without Proposer recourse.

- A signed cover letter from a principal of the Proposer identifying the Proposer's contact information, expressing interest in the Project, and certifying that sufficient resources in personnel and equipment are available to meet the construction deadline. The letter should describe the Proposer's structure, i.e., joint venture, corporation, etc. *(1 Page Maximum)*

- **Section 1 – Introduction** *(2 Pages Maximum)*: A statement of the Proposer's philosophy, goal, vision statements and/or guiding principles. Identify distinguishing factors that set the Proposer apart as the best firm to ensure Project success.

- **Section 2 – Project Approach** *(5 Pages Maximum)*: An outline of the proposed process to be used for the services to be rendered, including expected outcomes, timelines, and deliverables detailed for each critical phase. Identify assumptions and expectations regarding cooperation and assistance from the WV and Engineer.

  Include, as a minimum, descriptions of the following:

  (a) How the Proposer will ensure the Project will be constructed on-time and within budget.

  (b) The process that will be used to select vendors, sub-contractors, and other service providers for the Project.

  (c) Overview and key components of the Proposer's Safety Program

  (d) How budget and schedule will be managed

- **Section 3 – Project Team** *(4 Pages Maximum)*: Provide an organizational chart and resumesof Proposer's key project team members, including at a minimum, the following Project roles: Project Executive, Project Manager, Chief Estimator, Superintendent, and QA/QC Manager. Include a statement certifying that the proposed team members will not be changed for the duration of the Project without approval by the WVID. Highlight prior experience with wastewater treatment facility projects in Florida and CMAR experience.

- **Section 4 – Proposer Experience** *(5 Pages Maximum)*: Descriptions of five (5) previous projects completed in the last ten (10) years by the Proposer. The projects listed in this section must meet the following minimum qualifications:

  (a) The Proposer shall have completed, as prime contractor, at least five (5) wastewater treatment plant projects with a contract value exceeding $5,000,000 within the last ten (10) years.

  (b) The Proposer shall have completed, as prime contractor, at least three (3) wastewater treatment plant projects, in Florida, using Design-Build or Construction Manager at Risk (CMAR) delivery within the past ten (10) years. At least one (1) of the three (3) required projects must be a CMAR project with a minimum contract value of $20,000,000.

  Provide information on the five (5) projects using the form provided in *Appendix A – Form for Responding to Proposer Experience (this form may be recreated)*. Proposer may include one (1) additional page for each project to illustrate aspects of the completed project to assist the evaluation committee assess the Proposer's experience with relevant projects.

- **Section 5 – References:**

  Provide three (3) references for projects either in progress or completed during the last ten (10) years, which had a construction value of over $5.0 million at the time of performance. Provide these references using the form provided in *Appendix B – References Form (this form may be recreated)*.

- **Section 6 – Performance and Financial Data:** Provide each of the following items on the Appendix C Forms included at the end of the RFQ:

  (a) Proposer Safety Record

  (b) Termination Information

  (c) Surety Claims Information

  (d) Litigation, Arbitration, or Mediation Participation Information

  (e) Addenda Acknowledgement

Additionally, provide each of the following items:

(f) Florida General Contractor's License

(g) A letter from the responding Proposer's surety confirming the Proposer's ability to secure bonding for up to $30,000,000.

VI. Standard Insurance coverages carried by the Proposer. Anticipated RFQ Review and Selection Timeline

The anticipated timeline for the review of qualification statements and selection of a Proposer is as follows:

Wednesday August 23, 2017	RFQ Distributed
Tuesday August 29, 2017	SOQs Due (Close of Business)
Thursday August 31, 2017	Interviews

VII. Additional Information and Contacts

West Village appreciates your interest in providing services for this Project. For further information or questions regarding the content of this Request for Qualifications, please contact:

Ashley Miele, P.E.
Kimley-Horn and Associates, Inc.
1777 Main Street, Suite 200
Sarasota, FL 34236

APPENDICES

APPENDIX A– FORM FOR RESPONDING TO PROPOSER EXPERIENCE

1. Project Title and Location: _____

2. Project Description: _____

3. Owner's Name: _____
   Owner Contact Person and Phone Number: _____

4. Engineer of Record: _____
   Engineer Contact Person and Phone Number: _____

5. Total Project Cost: _____

6. Total Value of Change Orders: _____
   Owner Added: _____

7. Was construction completed within budget? (if not, provide explanation) _____
   _____

8. Project Duration (Dates): _____
   Construction Start Date:_____ Completion Date: _____

9. Was construction completed within schedule? (if not, provide explanation) _____
   What was the original construction completion date? _____

10. Location of office(s) performing work: _____

11. Was applicant the prime contractor or subcontractor? _____

12. Did this project utilize alternative delivery (CMAR or Design-Build)? _____

13. What work was performed in-house? _____

14. Type/Scope of services provided: _____

15. Names of key team personnel for this project: _____

16. Which members of your proposed team worked on this project? _____

17. What value engineering / constructability ideas were developed to reduce time and costs for the Owner?

_____

APPENDIX B– REFERENCES FORM

REFERENCE #1	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #2	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #3	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

APPENDIX C - PROPOSER SAFETY RECORD

Proposer Name: _____

Experience Modification Ratings (EMR)

Year	EMR Value	Explanation*
2016		
2015		
2014		
2013		

* Provide explanation of any value other than 1.00. Attach additional page(s) if necessary.

OSHA-Recordable Incident Rate & Events

Year	2016	2015	2014
Rate			

ATTACH OSHA FORM 300 FOR EACH OF THE FOLLOWING YEARS:

2016; 2015; 2014

APPENDIX C - PROPOSER TERMINATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), identify any project(s) from which Proposer has been terminated in the last five (5) years, and explain.

1. Project Name: _____

   Client: _____

   Project Start Date: _____

   Termination Date: _____

   Reason for Termination: _____

   _____

   _____

   _____

2. Project Name: _____

   Client: _____

   Project Start Date: _____

   Termination Date: _____

   Reason for Termination: _____

   _____

   _____

   _____

APPENDIX C - SURETY CLAIMS INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any claim(s) made against the Proposer's surety bond within the last five (5) years, and explain.

1. Project Name: _____

   Client: _____

   Bond Type (e.g., Bid, Performance, Payment): _____

   Claim Amount: _____

   Reason for Claim: _____

   _____

   _____

   _____

2. Project Name: _____

   Client: _____

   Bond Type (e.g., Bid, Performance, Payment): _____

   Claim Amount: _____

   Reason for Claim: _____

   _____

   _____

   _____

_____

APPENDIX C - LITIGATION, ARBITRATION, OR MEDIATION PARTICIPATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any project-related litigation, arbitration, or mediation in which the Proposer has been party within the last five (5) years, and explain.

1. Project Name: _____

   Client: _____

   Parties to Action: _____

   Proposer Role: _____

   Events Precipitating Action: _____

   _____

   _____

   _____

2. Project Name: _____

   Client: _____

   Parties to Action: _____

   Proposer Role: _____

   Events Precipitating Action: _____

   _____

   _____

   _____

APPENDIX C - ACKNOWLEDGEMENT OF ADDENDA

Proposer Name: _____

Proposer acknowledges receipt of the following

Addenda: Number	Date
_____	_____
_____	_____

EXHIBIT K
RESOLUTION 2016-22, WVID

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent

The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services

All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services

The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped

Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. Improper Invoice
An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request
A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services
All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice
An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request
A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider
Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase
The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor
Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General

Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. Sales Tax

Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers

Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. Proper Invoice for Non-Construction Goods and Services

All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
    a. A complete item description
    b. Quantity purchased
    c. Unit price(s)
    d. Total price (for each item)
    e. Total amount of invoice (all items)
    f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
    a. Itemized description of services performed
    b. The location and date of delivery of the services to the District
    c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
    d. Itemization of other direct, reimbursable costs (including description and amount)
    e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
        i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
        ii. Paid receipt
        iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. **Mailing and Drop Off Address**

_____
c/o _____
_____
_____

2. **Email Address**

_____

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. **Receipt of Proper Invoice**
Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. **Receipt of Improper Invoice**
If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:
   a. On which delivery of personal property is fully accepted by the District;
   b. On which services are completed and accepted by the District;
   c. On which the contracted rental period begins (if applicable); or
   d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. **Rejection of an Improper Invoice**
The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and
   3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. **Payment of Undisputed Portion of Invoice**
If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. **Receipt of Proper Payment Request**
The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. **Receipt and Rejection of Improper Payment Request**
a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. **Payment of Undisputed Portion of Payment Request**
If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor
If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services

All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services

All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest

If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

EXHIBIT L
RESOLUTION 2017-02, WVID

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities; and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District; and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A,** is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work

The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation

The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs

Other direct costs include items such as printing, drawings, travel, deliveries, et ceterá, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By: _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

_____
By: _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the

governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such

additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the

condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment 1

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

2. Manufacturer or brand, model or specification number of the item.

_____

_____

3. Quantity needed as estimated by CONTRACTOR. _____

4. The price quoted by the supplier for the construction materials identified above.

$_____

5. The sales tax associated with the price quote. $_____

6. Shipping and handling insurance cost. $_____

7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to

conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____

Signature of Authorized Representative of Governmental Entity — Title

West Villages Improvement District — _____

Purchaser's Name — Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

EXHIBIT M
RESOLUTION 2016-21, WVID

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as **Exhibit A** for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida,* as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes.*

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes.* Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: **Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended**
Law Implemented: **Ch. 2004-456(3)(2)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.**

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
    (a) District Counsel
    (b) District Engineer
    (c) District Manager
        1. Financial Report
        2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the

existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(q), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual;

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual;

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation; and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(16), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____ ___, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT N
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, _____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID")(West Villages and WVID are each a "Party" and collectively referred to as the "Parties"). Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

W I T N E S S E T H:

WHEREAS, West Villages and GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION ("CMAR") entered into that certain Agreement dated _____ ("Agreement") for the construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District, a copy of which Agreement, including all change orders approved to date, is attached and incorporated as **Exhibit N-1**;

WHEREAS, CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as **Exhibit N-2**;

WHEREAS, West Villages has obtained a release from CMAR acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising as a result of or connected with this Assignment, which is attached hereto as **Exhibit N-3**; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith; (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound; (iii) all approved payments to CMAR and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2. As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its

right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment.

3. This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida. The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties.

4. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Print Name: _____
Its:

_____

"WVID"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit N-1
Agreement

See attached

Exhibit N-2
Bonds

See attached

Exhibit N-3
Release

See attached

GARNEY COMPANIES, INC., a Missouri corporation
d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Garney Companies, Inc. ("CMAR"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and CMAR dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID"). CMAR acknowledges and accepts such assignment and its validity.

2. CMAR represents and warrants that CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. CMAR represents and warrants that all payments to CMAR and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

   _____{insert description of any outstanding dispute}

4. CMAR hereby releases and waives any claim it may have against the WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____day of _____, 201__.

"CMAR"

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

_____
Print Name _____

_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **GARNEY COMPANIES, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name:_____
NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

(Notarial Seal)

EXHIBIT O
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the _____, __ 2018 Agreement between West Villages Construction, LLLP and Garney Companies, Inc., a Missouri corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit O-1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and CMAR, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the Florida Statutes, CMAR shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the Florida Statutes. Such bond and/or security shall be for 100% of the Project GMP and shall be in effect for a full year from the time of completion of the Project. CMAR agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), Florida Statutes. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. CMAR shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. CMAR shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If CMAR fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, CMAR shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the CMAR shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the Florida Statutes. CMAR shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), Florida Statutes.

5. INDEMNIFICATION. CMAR shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 8.1.6.3 and 8.1.6.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the CMAR an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the CMAR may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to CMAR. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the CMAR.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to CMAR that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided CMAR with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the CMAR shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the CMAR. Each Certificate of Entitlement will be in the format specified by Rule I2A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the CMAR will use in the identified public works; (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. CMAR shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. CMAR understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the Florida Statutes, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the CMAR to allow public access to all documents, papers, letters, or other material made or received by the CMAR in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.

CMAR shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by CMAR to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, Florida Statutes or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
_____
Attn: _____

With a copy to:

Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement pursuant to section 287.135(5), Florida Statutes, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-2**. If the CMAR is found to have submitted a false certification as provided in section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement under section 287.133(3)(a), Florida Statutes, regarding public entity crimes, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, CMAR shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that CMAR is able to

execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit O-4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

"CMAR"

_____
Print Name _____

_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

_____
Print Name _____

_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

"WVID"
WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

_____
Print Name _____

_____
Print Name _____

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit O-1: Agreement
Exhibit O-2: Scrutinized Companies Statement
Exhibit O-3: Public Entity Crimes Statement
Exhibit O-4: Trench Safety Act Statement

EXHIBIT O-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Garney Companies, Inc.
(print name of entity submitting sworn statement)

whose business address is: 1333 NW Vivion Road, Kansas City, MO 64118

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

EXHIBIT O-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), FLORIDA STATUTES, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Garney Companies, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 1333 NW Vivion Road, Kansas City, MO 64118

_____

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), Florida Statutes, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

EXHIBIT O-4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

_____Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total:	

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

EXHIBIT P

List of Permits Required for the Work Pursuant to 2.1.6.2

2/19/2018

West Villages SWWRF Permits

Agency	Permit Type	Responsibility	Status	Notes	Cost
FDEP	Domestic WW Facility Permit	Kimley-Horn	Submitted	Submitted by Stantec on 4/14/17	$5,000
FDEP	Class I Municipal Well	Kimley-Horn	Submitted	Submitted by KH on 1/25/18	TBD
FDEP	Environmental Resource Permit	Kimley-Horn	**Approved**	Issued February 19, 2018	$320
FDEP	Water/Wastewater Construction Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve contract	TBD
USACE	Jurisdictional Determination (JD)	Kimley-Horn	Submitted	Anticipate JD to be issued mid-March. The JD acknowledgse that USACE will determine that wetlands are not in there jurisdiction therefore no USACE permit is required.	$0
FDOT	Utility ROW Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve contract	TBD
FDOT	Temporary Driveway Permit	Kimley-Horn	Submitted	Anticipate permit early March	$250
FDOT	Permenant Driveway Permit	Kimley-Horn	Not Submitted	Anticipate permit submittal early March	$250
City of North Port	Development Order	Kimley-Horn	**Approved**	Application has been reviewed and approved with conditions. Waiting for Development Order to be issued by Planning Department.	$9,355
City of North Port	Land Clearing Permit	Garney	Not Submitted	Garney will submit the permit application after Owner approves GMP1 Agreement.	TBD
City of North Port	Affidavit of Best Management Practice Compliance	Garney	Not Submitted	Requires sitework sub to be registered with City of Northport	TBD
City of North Port	Building Permit	Kimley-Horn/ Garney	Not Submitted	KH to complete signed & sealed plans Garney to submit application & schedule inspections	TBD
City of North Port	Fire Alarm Permit	Kimley-Horn/ Garney	Not Submitted	KH to complete signed & sealed plans Garney to submit application & schedule inspections	TBD
SWFWMD or FDEP	Dewatering Permit	Garney	Not Submitted	Garney will submit the permit application after Owner approves GMP1 Agreement.	TBD

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this 12th day of April, 2018 ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID")(West Villages and WVID are each a "Party" and collectively referred to as the "Parties"). Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

WITNESSETH:

WHEREAS, West Villages and GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION ("CMAR") entered into that certain Agreement dated March 9, 2018 ("Agreement") for the construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District, a copy of which Agreement, including all change orders approved to date, is attached and incorporated as **Exhibit N-1**;

WHEREAS, CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as **Exhibit N-2**;

WHEREAS, West Villages has obtained a release from CMAR acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising as a result of or connected with this Assignment, which is attached hereto as **Exhibit N-3**; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith; (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound; (iii) all approved payments to CMAR and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2. As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its

right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment.

3. This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida. The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties.

4. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

Print Name Tracy Winkler

Print Name Carolyn Tracek

"CMAR"

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: TIMOTHY M BEHLER
Title: COO Eastern Plant Operations
Date: 3/23/18

Print Name Lindsay Whelan

Print Name Todd Wodraska

"WVID"

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit O-1: Agreement
Exhibit O-2: Scrutinized Companies Statement
Exhibit O-3: Public Entity Crimes Statement
Exhibit O-4: Trench Safety Act Statement

Exhibit N-1
Agreement

See attached

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
(Owner)

AND
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
(Construction Manager at Risk "CMAR" or "Contractor")

March 9, 2018

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER (where the construction manager is also the constructor) (the "Agreement" or "Contract") is dated and made on the 9th day of March, 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor").

Owner Information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@mattamycorp.com

CMAR Information:
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118
CMAR's designated representative:
Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 - office
(321) 229-7221- mobile
tbehler@garney.com

Project Information:
Construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District (WVID). The Project includes design, constructability analysis, value engineering, supervising control and data acquisition integration (SCADA) in accordance with all Laws and Regulations, permits and other requirements of the West Villages Improvement District, City of North Port, the Florida Department of Environmental Protection (FDEP) and such other agency or district. The CMAR will work with the Owner and Engineer to complete the Project design, construction, and start-up at which time ownership and operations of the fully functional facility will be turned over to the West Villages Improvement District or City of North Port. This Agreement may be assigned by Owner without notice to the WVID or such other agency.

Engineer Information:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.

(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

Unless context otherwise requires, or as specifically set-forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as Exhibit I.
The Owner and CMAR agree as follows:

TABLE OF ARTICLES

1 GENERAL PROVISIONS
2 CMAR RESPONSIBILITIES
3 OWNER RESPONSIBILITIES
4 ENGINEER
5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE
6 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE
7 COST OF WORK FOR CONSTRUCTION PHASE
8 PAYMENT PROCEDURES
9 INSURANCE AND BONDS
10 ENUMERATION OF CONTRACT DOCUMENTS
11 MISCELLANEOUS
12 TERMINATION OR SUSPENSION
13 DISPUTE RESOLUTION

ARTICLE 1. GENERAL PROVISIONS

§1.1 CMAR has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means and methods dictated by design parameters in the Contract Documents. CMAR covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner; (ii) provide efficient construction administration, management services and supervision; (iii) provide at all times an adequate supply of workers and materials; and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Laws and Regulations, and the Contract Times.

§1.2 Neither CMAR nor any of CMAR's employees shall be deemed employees of the Owner for any purpose whatsoever; CMAR being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

§1.3 For the Preconstruction Phase, the General Conditions, shall apply only as specifically provided in this Agreement. For the Construction Phase, the General Conditions shall be as set forth in the General Conditions, which document is incorporated herein by reference. The term "Contractor" as used in the General Conditions shall mean the CMAR.

ARTICLE 2. CMAR RESPONSIBILITIES

CMAR shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. CMAR shall provide all services, deliverables and perform all Work more specifically described in the Contract Documents. The CMAR's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2 of this Agreement. CMAR's Construction Phase responsibilities are set forth in Section 2.3 and the General Conditions. The Owner and CMAR may agree, in consultation with the Engineer, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The CMAR has identified its Chief Operating Officer, Timothy M. Behler, who is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.1 Preconstruction Phase
§ 2.1.1 The CMAR shall provide all services and deliverables identified in the "PRECONSTRUCTION SCOPE OF SERVICES, Southwest Wastewater Reclamation Facility (Project)", dated September 13, 2017, incorporated herein and attached hereto as Exhibit A, and the "West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP" dated, September 27, 2017 and modified on November 17, 2017, incorporated herein and attached within Exhibit B, at such times reflected in Exhibits A and B, time being of the essence. CMAR's services specifically include a review of structural, mechanical, plumbing, electrical, architectural, Site/civil design for the completion of the Work. On the Effective Date, the Contract Documents relating to Sections 2.1 and 2.2 shall be fully incorporated into Exhibits A and B, *nunc pro tunc*.

§ 2.1.2 Consultation
The CMAR shall schedule and conduct meetings with the Engineer and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The CMAR shall advise the Owner and the Engineer on proposed Site use and improvements, selection of materials, and building systems and equipment. The CMAR shall also provide recommendations consistent with the Project requirements to the Owner and Engineer on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 Progress Schedule
Upon reaching the design percentages reflected in Exhibit A, the CMAR shall prepare and periodically update a Progress Schedule for the Engineer's review and the Owner's acceptance. The Progress Schedule shall coordinate and integrate the CMAR's services, the Engineer's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The Progress Schedule shall include the following: submission of the Guaranteed

Maximum Price proposal; components of the Work, times of commencement and completion required of each Subcontractor; Milestones, ordering and delivery of products, including those that must be ordered well in advance of construction; and other requirements of the Owner.

§ 2.1.4 Phased Construction
CMAR shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The CMAR shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates
§ 2.1.5.1 Upon reaching the design percentages reflected in Exhibits A and B, the CMAR shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Engineer's review and Owner's approval. If the Engineer or CMAR suggests alternative materials and systems, the CMAR shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 At appropriate intervals reflected in Exhibits A and B, CMAR shall prepare detailed cost estimates of the Cost of the Work of increasing detail and refinement, allowing for further development of the design until such time as the Owner and CMAR agree on a Guaranteed Maximum Price ("GMP") for the Work (the term "GMP" shall collectively refer to GMP1 and GMP2, as hereafter defined). The CMAR shall inform the Owner and Engineer when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Bidding, Permitting and Long Lead Items
The CMAR shall develop bidders' interest in the Project and provide such services for GMP development described in Exhibit A.

§ 2.1.6.1 CMAR shall prepare, for the Engineer's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The CMAR shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. Upon the establishment of the GMP, the Owner shall assign all contracts for these items to the CMAR and the CMAR shall thereafter accept responsibility for them.

§ 2.1.6.2 The CMAR shall take commercially reasonable efforts to apply for and obtain all permits reflected in Exhibit P.

§ 2.1.7 Notices and Compliance with Laws
The CMAR shall comply with all Laws and Regulations applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.

§ 2.2 GMP Development
§ 2.2.1 Upon reaching the design percentages reflected in Exhibits A and B, and in consultation with the Owner and Engineer, the CMAR shall prepare a GMP proposal for the Owner's review and acceptance. The GMP proposal shall be the sum of the CMAR's estimate of the Cost of the Work and the CMAR's Fee.

§ 2.2.1.1 GMP 1. Owner and CMAR have agreed on a GMP for portions of the Work identified in Exhibits D1-1 through D1-5 ("GMP1"). The Contract Price for the Work reflected in GMP1 is guaranteed by the CMAR not to exceed Fourteen Million Three Hundred Four Thousand Seven Hundred Forty Five and No/100 Dollars ($14,304,745.00) subject to additions and deductions by Change Order as provided by the Contract Documents. Exhibits D1-1 through D1-5 are itemized statements of GMP1 organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP1.

§ 2.2.1.2 GMP 2. In addition to the GMP1, and in accordance with the provision of Sections 2.2.6 and 6.2 of this Agreement, CMAR shall propose to Owner for Owner's consideration and written approval, a GMP2, which shall represent the CMAR's Contract Price for the entire Project and all Work. The GMP2 shall include all amounts previously agreed upon within GMP1 and shall be organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP2.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Engineer, the CMAR shall provide in the GMP2 for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The CMAR shall include with the GMP2 proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the conditions of the Contract;
.2 A list of the clarifications and assumptions made by the CMAR in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
.3 A statement of the proposed GMP2, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the CMAR's Fee;
.4 The anticipated date of Substantial Completion upon which the proposed GMP2 is based; and
.5 All indirect GMP services and General Conditions/General Requirements identified in the "INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, incorporated herein and attached hereto as Exhibit C;
.6 A date by which the Owner must accept the GMP2.

§ 2.2.4 The CMAR shall meet with the Owner and Engineer to review the GMP2 proposal. In the event that the Owner and Engineer discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CMAR, who shall make appropriate adjustments to the GMP2 proposal, its basis, or both.

§ 2.2.5 If the Owner notifies the CMAR that the Owner has accepted the GMP2 proposal in writing before the date specified in the GMP2 proposal, the GMP2 proposal shall be deemed effective without further acceptance from the CMAR. Following acceptance of the GMP2, the Owner and CMAR shall

execute the Guaranteed Maximum Price Amendment, an exemplar form of which is attached hereto as Exhibit D2, (the "GMP2 Amendment") amending this Agreement, a copy of which the Owner shall provide to the Engineer. The GMP2 Amendment shall set forth the agreed upon, guaranteed Contract Price for the entire Work of the Project with the information and assumptions upon which it is based.

§ 2.2.7 The CMAR shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs. Any such costs incurred by CMAR shall be borne solely by CMAR without any reimbursement from Owner.

§ 2.2.8 The Owner will authorize the Engineer to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the GMP2 Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the CMAR as they are revised. The CMAR shall promptly notify the Owner and Engineer of any inconsistencies of which it has knowledge between the GMP2 Amendment and the revised Drawings and Specifications.

§ 2.2.9 The CMAR shall include in the GMP2 all sales, consumer, use and similar taxes for the Work provided by the CMAR that are legally enacted at the time the GMP2 Amendment is executed.

§ 2.3 Construction Phase
§ 2.3.1 General
§ 2.3.1.1 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as Exhibit F.

§ 2.3.1.3 CMAR's Designated Representative
CMAR's designated representative is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.3.2 Contract Times
§ 2.3.2.1 Substantial Completion.
Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.3.1.2 of this Agreement. CMAR shall achieve Substantial Completion of the entire Work within 640 calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. CMAR shall finally complete the Work and satisfy all conditions to final completion and final payment within 30 calendar days from Substantial Completion, time being of the essence.

§ 2.3.2.2 Liquidated Damages.
CMAR understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if CMAR fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then CMAR shall pay Owner as liquidated damages and not by way of penalty, the following:

- Three Thousand and No/100 Dollars ($3,000.00) per calendar day, for the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work within the specified time; and
- Six Thousand and No/100 Dollars ($6,000.00) per calendar day, after the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work.

The liquidated damages specified herein are in addition to any other damages Owner is entitled to under the Agreement or at law that are not related to delays in the Work. In the event Owner withholds or deducts any money or payment due from CMAR for liquidated damages, CMAR shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due CMAR under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements CMAR has with Owner. In the event no money is due the CMAR, then CMAR shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

CMAR expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that CMAR fails to substantially complete the Work in a timely manner. Owner agrees and acknowledges that the liquidated damages are the sole and exclusive remedy available to the Owner with respect to any damages it sustains as a result of delay. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3.3 Administration
§ 2.3.3.1 Prior to any assignment to West Villages Improvement District provided in 11.2 of this Agreement, those portions of the Work that the CMAR does not customarily perform with the CMAR's own personnel shall be performed under subcontracts or by other appropriate agreements with CMAR. Owner may designate specific persons from whom, or entities from which, the CMAR shall obtain bids. CMAR shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Engineer. The Owner shall then determine, with the advice of CMAR and the Engineer, which bids will be accepted. CMAR shall competitively bid work it customarily performs with its own personnel and receive at least three (3) bids for all Work to be performed by Subcontractors that is in excess of One Hundred Thousand and No/100 Dollars ($100,000.00).

§ 2.3.3.1.1 Notwithstanding the provisions of 2.3.3.1, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as Exhibit L and Exhibit M, respectively.

§ 2.3.3.2 CMAR Self-Performed Work

Unless otherwise agreed to in writing by Owner, any portion of the Work that CMAR customarily performs with its own personnel that is in excess of One Hundred Twenty Five Thousand and No/100 Dollars ($125,000.00) shall competitively bid. CMAR shall receive no fewer than three (3) bids from non-affiliated entities (unrelated parties) for all Work CMAR intends to self-perform. All such bids shall be provided to Owner and Engineer upon submission of the GMP2 proposal. Notwithstanding the provisions of 2.3.3.2, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02 and Resolution 2016-21, copies of which are attached hereto and incorporated herein as Exhibit L and Exhibit M, respectively.

§ 2.3.3.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the CMAR recommends a specific bidder that may be considered a "related party, then the CMAR shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction.

§ 2.3.3.4 CMAR shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The CMAR shall prepare and promptly distribute minutes to the Owner and Engineer.

§ 2.3.3.5 Upon executing the GMP2 Amendment, CMAR shall prepare and submit to the Owner and Engineer a preliminary Progress Schedule for the Work, preliminary Schedule of Submittals, and preliminary Schedule of Values in accordance with Section 2.03 of the General Conditions.

§ 2.3.3.6 On a monthly basis, or otherwise as agreed to by the Owner, CMAR shall submit written progress reports to the Owner and Engineer, showing percentages of completion and other information required by the Owner. CMAR shall also keep, and make available to the Owner and Engineer, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on Site, identification of equipment on Site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner. The daily log shall be available immediately upon request of the Engineer or Owner.

§ 2.3.3.7 CMAR shall develop a system of cost control for the Work, including daily monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. CMAR shall identify potential variances between actual and estimated costs and report the variances to the Owner and Engineer and shall provide this information in its monthly reports to the Owner and Engineer.

§ 2.3.2.8 CMAR shall inspect the Work of the Subcontractors daily for defects and deficiencies in the Work.

§ 2.3.2.9 CMAR shall maintain at the Site, records of all contracts, Drawings, Samples, Submittals, purchases, materials, equipment, maintenance and operating manuals, instructions, and other construction related documents, including all revisions. CMAR shall obtain data from subcontractors and maintain a current set of record Drawings, Specifications and operating manuals. At the completion of the Project, CMAR shall deliver all such records to the Owner.

§ 2.3.2.10 CMAR shall protect all materials, equipment, completed and partially completed Work from loss and damage including theft and damage by weather. CMAR warrants that all materials and

equipment procured by CMAR and included in the Work will be new, free from defects and in accordance with the Drawings and Specifications, but makes no such warranty as to materials and equipment directly purchased by Owner. CMAR warrants that the Project shall be built and constructed without error, flaw or omission, in compliance with all Laws and Regulations and in strict conformance with the requirements of the Drawings and Specifications.

ARTICLE 3. OWNER RESPONSIBILITIES

§ 3.1 Information
§ 3.1.1 The Owner has provided information regarding requirements for and limitations on the Project. The Owner has established an overall budget for the Project. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the CMAR.

§ 3.1.2 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the Site, and a legal description of the Site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the Site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees.

§ 3.1.3 Owner, when such services are required, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4 Owner shall make timely payments to CMAR and in accordance with Article 9 and Article 15 of the General Conditions.

ARTICLE 4. ENGINEER.

The Project is being designed by the Engineer with assistance by the CMAR. The Engineer will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 5. COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE.

§ 5.1 Compensation
§ 5.1.1 For the CMAR's Preconstruction Phase services, the Owner shall compensate the CMAR a stipulated lump sum of ($135,000).

§ 5.1.2 Compensation based on direct personnel expense includes the direct salaries of the CMAR's personnel providing Preconstruction Phase services on the Project, including project engineer to assist with permitting requirements, and the CMAR's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 5.2 Payment for Preconstruction Phase Services
§ 5.2.1 The payment for Preconstruction Phase services shall be made upon completion of all the services and deliverables.

§ 5.2.2 CMAR acknowledges that it was paid and has received fifty percent (50%) of its stipulated lump sum for the Preconstruction Phase Services. Payment of the remainder of the lumps sum is due upon final completion of the Preconstruction Phase Services and payable upon presentation of the CMAR's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of four percent (4%) per annum. CMAR shall accompany each invoice with a Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment in the form attached hereto as Exhibit E.

§ 5.2.3. Notwithstanding the provisions of 5.2.2., after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2016-22, a copy of which is attached hereto and incorporated herein as Exhibit K.

ARTICLE 6. COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE.

§ 6.1 For the CMAR's performance of the Work as described in Section 2.3, the Owner shall pay the CMAR the Contract Price in current funds. The Contract Price is the Cost of the Work as defined in Section 7.1.1 plus the CMAR's Fee.

§ 6.1.1 The CMAR's Fee:

A fixed fee of One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00). CMAR may also receive as an additional fee, six percent (6%) of any GMP that is in excess of Twenty Five Million and No/100 Dollars ($25,000,000). By way of example only, if the GMP is $26,000,000 then CMAR shall receive a $1,500,000 fixed fee together with 6% of the additional $1,000,000 over the $25,000,000 GMP, for a total CMAR Fee of $1,560,000.

§ 6.1.2 The method of adjustment of the CMAR's Fee for changes in the Work:

Six percent (6%) of the change in the Work.

§ 6.1.3 Costs for Construction General Conditions/General Requirements
CMAR's "Construction General Conditions/General Requirements" are attached hereto and incorporated herein as Exhibit C, and shall be a fixed lump sum amount not to exceed $1,425,000 and $75,000 of allowances as per Exhibit B. If the date of Substantial Completion extends past 640 calendar days from the date of Notice to Proceed, through no fault of the CMAR, then applicable extended Construction General Conditions/General Requirements shall be the actual costs of the General Conditions/General Requirements incurred but it no event shall said General Conditions/General Requirements exceed $65,000 per month. If the total amount of the General Conditions/General Requirements are less than the lump sum reflected in Exhibit B, all savings shall belong to the CMAR.

§ 6.1.4 Rental rates for CMAR-owned equipment shall not exceed the standard rate paid at the place of the Project.

§ 6.2 Guaranteed Maximum Price
§ 6.2.1 CMAR guarantees that the Contract Price shall not exceed the Guaranteed Maximum Price set forth in the GMP2 Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the CMAR shall be responsible for such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

§ 6.2.1.1 If upon final completion of the Work, the total Cost of the Work plus the CMAR's Fee is less than the GMP, as adjusted in accordance with this Agreement, then the difference shall be "savings". The savings shall be allocated as follows: (a) eighty percent (80%) to Owner; and (b) twenty percent (20%) to CMAR. Savings shall not include any deletions from the scope of Work under this Agreement.

§ 6.2.2 The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may order changes in the Work consisting of additions, deletions or other revisions as provided in Article 11 of the General Conditions. The Owner shall issue such changes in writing. The Engineer may make minor changes in the Work as provided in Section 11.01 of the General Conditions.

§ 6.3.2 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" shall mean the Cost of the Work as defined in Sections 7.1 to 7.7 of this Agreement and the term "fee" shall mean the CMAR's Fee as defined in Section 6.1 of this Agreement.

ARTICLE 7. COST OF THE WORK FOR THE CONSTRUCTION PHASE.

§ 7.1 The term Cost of the Work shall mean costs necessarily incurred by CMAR in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.5 and shall never include the CMAR's Fee.

§ 7.1.1 Where any cost is subject to the Owner's prior approval, CMAR must obtain this approval prior to incurring the cost.

§ 7.2 Labor Costs
§ 7.2.1 Only those wages of construction workers directly employed by CMAR to perform the construction of the Work at the Site that are not otherwise included in Exhibit F.

§ 7.3 Subcontract Costs
Payments made by the CMAR to Subcontractors in accordance with the requirements of the subcontracts.

§7.4 Construction General Conditions/General Requirements
§7.4.1 Those Costs specifically provided in Exhibit F. Notwithstanding anything to the contrary, Exhibit F shall control over any conflicting provision of Article 7 of this Agreement.

§ 7.5 Miscellaneous Costs
§ 7.5.1 Premiums for that portion of insurance and bonds required by the Contract Documents that are directly attributed to this Agreement that are not included in Exhibit F. Notwithstanding the foregoing, bond premiums shall be (.40%) of the penal sum of the bond. Insurance premiums shall be (0.15%) for CMAR coverages reflected in Exhibit H.

7.6 Costs Not To Be Reimbursed
§ 7.6.1 The Cost of the Work shall not include any costs other than specifically provided in 7.2-7.5 of this Agreement.

§ 7.7 Discounts, Rebates and Refunds
§ 7.7.1 Cash discounts obtained on payments made by the CMAR shall accrue to the Owner if (1) before making the payment, the CMAR included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the CMAR with which to make payments; otherwise, cash discounts shall accrue to the CMAR. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the CMAR shall make provisions so that they can be obtained.

§ 7.7.2 Amounts that accrue to the Owner in accordance with the provisions of Section 7.7.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.8 Related Party Transactions
§ 7.8.1 The term "related party" as used in this Agreement, shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with CMAR; any entity in which any stockholder in, or management employee of, the CMAR owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the CMAR.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the CMAR and a related party, the CMAR shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the CMAR shall procure the Work, equipment, goods or service from the related party as a Subcontractor. If the Owner fails to authorize the transaction, the CMAR shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of this Agreement.

§ 7.9 Accounting Records
CMAR shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the CMAR's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. CMAR shall preserve these records for such period as may be required by Law and Regulations, including without limitation, any Laws and Regulations regarding public records requests as may be necessary to effectuate any assignment of this Agreement to the

West Villages Improvement District, or such other agency, or the transfer of the SWWWRF to the City of North Port.

§ 7.9.1 Records to be available for Owner's audit shall include but not be limited to accounting records, written policies and procedures, contract and subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence invoices; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other supporting evidence deemed necessary to substantiate charges. These records shall be open to inspection and subject to audit and/or reproduction to the extent necessary to adequately permit evaluation and verification of the Cost of the Work, and any invoices, change orders, payments or claims submitted by the CMAR or vendor to any of his payees pursuant to the execution of the Agreement. This material shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations).

§ 7.9.2 If an audit or examination of the CMAR's records discloses overcharges (of any nature) by the CMAR then, at the Owner's option, either the CMAR shall immediately reimburse the Owner for such overcharge or the Owner may deduct the amount of such overcharges from amounts otherwise owed by the Owner to the CMAR.

ARTICLE 8. PAYMENT PROCEDURES.

§ 8.1 Pre-Assignment Progress Payments
§ 8.1.1 Prior to any assignment to a governmental entity provided in Section 11.2 of this Agreement, and based on Application for Payment submitted to the Engineer, the Owner shall make progress payments on account of the Contract Price to the CMAR as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 8.1.1.1 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - Exhibit E - from CMAR and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment.

§ 8.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 8.1.3 With each Application for Payment, CMAR shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Engineer to demonstrate that cash disbursements already made by CMAR on account of the Cost of the Work equal or exceed progress payments already received by the CMAR, less that portion of those payments attributable to the CMAR's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 8.1.4 Each Application for Payment shall be based on the most recent Schedule of Values submitted by the CMAR in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the CMAR's Fee shall be shown as a single separate item. The Schedule of Values shall be prepared in such form and

supported by such data to substantiate its accuracy as the Engineer may require. This schedule, unless objected to by the Engineer, shall be used as a basis for reviewing the CMAR's Applications for Payment.

§ 8.1.5 Applications for Payment shall show the percentage of actual completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 8.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the GMP allocated to that portion of the Work in the Schedule of Values;
.2 Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;
.3 Add the CMAR's Fee, less retainage of ten percent (10%). The CMAR's Fee shall be computed upon the Cost of the Work at the rate stated in Section 6.1 or, if the CMAR's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
.4 Subtract retainage of ten percent (10%) from that portion of the Work that the CMAR self-performs;
.5 Subtract the aggregate of previous payments made by the Owner;
.6 Subtract the shortfall, if any, indicated by the CMAR in the documentation required by Section 8.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
.7 Subtract amounts, if any, for which the Engineer has withheld or nullified.

§ 8.1.7 CMAR shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 8.2 Post-Assignment Progress Payments
Prior to the effective date of the assignment of the Agreement pursuant to section 11.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding any other provisions of the Agreement and General Conditions, upon assigning this Agreement to the WVID or other agency pursuant to Section 11.2 herein, CMAR shall provide its Application for Payment to the WVID, which shall be delivered or mailed to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as Exhibit K. The Application for Payment shall include such supporting information as the WVID may reasonably require the CMAR to provide.

§ 8.3 Final Payment
§ 8.3.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the CMAR when:

.1 final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;
.2 CMAR furnishes a final accounting of the Cost of the Work and evidence satisfactory to Owner that there are no obligations, Claims or Liens for labor, taxes, contributions or other items in connection with the Work;
.3 CMAR and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as Exhibit G; unless the lien is attributable to the Owner;
.4 CMAR having delivered to Owner all as-built drawings showing the location of all improvements constructed on the Site required by Owner, West Villages Improvement District and City of North Port;
.5 CMAR having delivered to Owner a complete list of Subcontractors and Suppliers for the Work, including addresses and telephone numbers, sworn to by CMAR;
.6 CMAR having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;
.7 CMAR having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;
.8 CMAR having delivered to Owner consents of surety; and
.9 CMAR having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 8.3.2 Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 15.06 of the General Conditions. If CMAR fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner, Owner, in addition to all other rights and remedies available to it, will have the right to retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due CMAR. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due CMAR from Owner, or (ii) issue a written notice to CMAR reducing the Contract Price by an amount equal to that which Owner is entitled. If CMAR disputes any owner withholding under this section, CMAR shall have the right to pursue the dispute resolution provisions in Article 13.

ARTICLE 9. INSURANCE and BONDS.

§ 9.1 Insurance.
§ 9.1.1 For all phases of the Project, CMAR shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 9.1.1.1 CMAR shall, for the protection and benefit of the indemnitees, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of CMAR's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on Exhibit H, attached hereto and incorporated herein by reference. CMAR shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and

insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the additional requirements under this Article 9 and the Contract Documents.

§ 9.1.1.2 All deductibles under any insurance shall be paid by CMAR.

§ 9.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by CMAR pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to CMAR's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 9.1.2 The insurance required by this Section shall be endorsed by CMAR's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to CMAR's insurance:
"The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 9.1.3 Additional Insureds.
The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to CMAR's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of CMAR's and its Subcontractor's Work, during the CMAR's and/or Subcontractor's operations and following the CMAR's and/or Subcontractor's completed operations. CMAR shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

§ 9.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit H shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 9.1.5 Waiver of Subrogation.
CMAR and all Subcontractors shall waive their rights of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by CMAR and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 9.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit CMAR's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 9.1.7 Indemnification.
CMAR, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage to the extent caused by the negligent acts or omissions of CMAR, and other persons employed or utilized by CMAR in the performance of this Agreement or the services performed hereunder. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 9.1.8 Limitation on Governmental Liability.
Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

§ 9.1.9 Any aggregate limit under CMAR's liability insurance shall, by endorsement, apply to the Project separately.

9.2 Performance Bond And Payment Bond; No Lien Rights.
§ 9.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05, Florida Statutes, CMAR shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Project GMP and shall be in effect for a full year from the time of final completion of the Project. CMAR acknowledges that this Agreement may be assigned to the WVID and that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. CMAR shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond. Prior to the assignment of this Agreement from Owner to WVID, CMAR shall have all available lien rights.

§ 9.2.1.1 Owner will pay to CMAR as a Cost of the Work a rate of four tenths percent (.40%) of the penal sum of the bond. The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 9.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement, and

§ 9.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by CMAR under the Agreement; and

§ 9.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the CMAR under the Contract Documents; and

§9.2.1.5 That the CMAR's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 9.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 10. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and CMAR concerning the Work consist of the following:

§ 10.1 This Agreement.

§ 10.2 Exhibits to this Agreement:

- A PRECONSTRUCTION SCOPE OF SERVICES, dated September 13, 2017, 4 pages
- B CMAR Preconstruction Scope of Services and Indirect GMP Costs with Garney Policy Coverage Limits, 2 pages; West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP dated, September 27, 2017, 2 pages, and modified on November 17, 2017, 1 page; Estimate for West Villages –General Conditions, 2 pages
- C INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, 3 pages
- D1 GMP1 (including exhibits D1-1 through D1-5)
- D2 GMP2 Amendment (exemplar)(including exhibits (D2-1))
- E Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages
- F Form – Notice to Proceed, 1 page
- G Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages
- H Insurance Requirements
- I WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested
- J Request for Qualifications for Construction Manager at Risk (CMAR) Services For The Southwest Water Reclamation Facility (WRF), 15 pages
- K Resolution 2016-22, West Villages Improvement District
- L Resolution 2017-02, West Villages Improvement District
- M Resolution 2016-21, West Villages Improvement District
- N Form of Assignment and Assumption of Contract, with exhibits N-1 through N-3
- O Addendum to Agreement Upon Assignment, with exhibits O-1 through O-4
- P List of Permits Required for the Work Pursuant to 2.1.6.2

§ 10.3 The documents listed in this Article 10 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 10. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits K, L, M, N, O and D, the General Conditions, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 11. MISCELLANEOUS.

§ 11.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§11.2 Except as provided herein, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of CMAR, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. CMAR and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in Exhibit N (as Exhibit N-3), the Addendum to Agreement Upon Assignment attached and included in Exhibit O, and such other consents reasonably required to facilitate such assignment.

§ 11.3 CMAR binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 11.4 CMAR shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 11.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 11.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 11.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 11.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 11.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 11.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 11.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 11.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. CMAR understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, CMAR agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, Florida Statutes. CMAR acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the CMAR shall 1) keep and maintain public records required by the WVID to perform the service; 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the CMAR does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in CMAR's possession or, alternatively, keep, maintain and meet all applicable

requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the CMAR, the CMAR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CMAR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CMAR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 11.14 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at: Paul J. Erhardt, President
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamcorp.com

with copy to: Leslie C. Candes, Esq.
4901 Vineland Road
Suite 450
Orlando, Florida 32811
Email: leslie.candes@mattamcorp.com

If to CMAR, at: Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 – office
(321) 229-7221- mobile
tbehler@garney.com

If to Engineer, at: Ashley M. Miele, P.E.
1777 Main Street, Suite 200
Sarasota, Florida 34236
Ashley M. Miele, P.E.
Email: Ashley.Miele@kimley-horn.com

§ 11.15 Consequential Damages

§ 11.15.1 Except as set forth in Section 11.15.2 below, none of the CMAR, the Owner, the WVID (upon an effective assignment), the engineer, nor their respective, officers, employees, and representatives, shall be liable for indirect, incidental, special or consequential damages.

§ 11.15.2 The consequential damages waiver set forth in Section 11.15.1 shall not impact the parties' rights or obligations under the Agreement regarding the payment of liquidated damages or any early completion bonus.

ARTICLE 12. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the CMAR as provided in Article 16 of the General Conditions.

ARTICLE 13. DISPUTE RESOLUTION

§ 13.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, Florida Statutes and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 13.2. Governing Law, Venue And Jurisdiction. The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: [signature]
Name: Timothy M Behler
Title: CHIEF OPERATIONS OFFICER - EASTERN PLANT
Date: MARCH 9, 2018
State License No. CGC1515632
Expiration Date: 8-31-2019

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: [signature]
Name: PAUL ERHARDT
Title: VICE PRESIDENT
Date: MARCH 9, 2018

EXHIBIT A
PRECONSTRUCTION SCOPE OF SERVICES

EXHIBIT A

PRECONSTRUCTION SCOPE OF SERVICES

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

September 13, 2017

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's preconstruction responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and Guaranteed Maximum Price (GMP) preparation. These services are separated into various tasks necessary to complete the overall scope of services.

Task #1 – 60% Design Task

a. Project Review Meeting: Participate in a team meeting to review the status of the site layout, design, and Owner's desired outcome of the project. One week prior to the meeting, the Owner will provide the latest set of design documents for review.

b. Construction Management Plan (CMP): CMAR will review existing facility drawings, as well as, visit the City of North Port WRF and the proposed SWWWRF site to evaluate existing conditions. The CMAR will assist with obtaining required permits, identification of long lead time equipment, and identification of partial GMP phases that can be initiated early.

c. Project Schedule: CMAR will prepare a detailed schedule to reflect all the activities necessary to complete the design of the project. The schedule will include permitting, all major material purchases, submittal activities, and address the final completion date.

d. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 60% design. CMAR will provide a report with observations, value engineering opportunities, owner direct purchase options, and recommendations. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings, evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

e. Cost Estimate: CMAR will prepare a construction budget estimate based on the design documents provided. Estimates will be reflect present market conditions and future market expectations at the time of construction for labor, material, etc. CMAR will prepare a cash flow projection for budgeting the finance needs for the project.

f. GMP: CMAR will develop an early GMP that will include the early solicitation and purchase of key equipment, materials, and construction activities needed to meet the project completion date.

   1. CMAR will select the long lead items that could impact the Project schedule. For those items identified, CMAR will develop a detailed scope of supply, solicit vendors for pricing and delivery lead times, review proposals, and provide a detailed analysis for selection. The CMAR will negotiate the terms / conditions, final price, and delivery deadlines, along with preparing a detailed purchase order.

   2. CMAR will prepare detailed bid packages for early completion activities, solicit and pre-qualify companies to submit proposals, hold prebid meetings and site visits, and review proposals.

   3. CMAR will prepare GMP #1 that includes the cost of the long lead time equipment / materials, early bid package items, CMAR contingency, general conditions, bonds, insurance, and CMAR fee for District's review and approval by the Owner.

Task #2 – 90% Design Task

a. Project Schedule: CMAR will update the schedule to reflect the 90% design documents, along with incorporating all progress made to date. The status and progress of the long lead item procurement items and GMP #1 packages will be incorporated and updated in the schedule.

b. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 90% design. A report with observations, value engineering opportunities, and recommendations will be provided. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings, evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

c. Cost Estimates: CMAR will provide updated detailed cost estimates based on the 90% design. Detailed supporting documentation will be provided and presented in an "open book" format for the Owner to review. An updated cash flow projection will be provided for budgeting the finance needs for the project.

Task #3 – GMP Development

a. Bid Package Development: Based on the 90% design, CMAR will prepare bid packages for the various components of the project. The bid packages will include equipment procurement, sub-contractor bid packages, and self-perform bid packages.

b. Project Bidding: CMAR will solicit, prequalify, and issue bid packages to prospective bidders. CMAR will hold a prebid meeting and site tour to explain the project details, expectations, and familiarize each bidder with the existing site conditions.

c. Guaranteed Maximum Price (GMP): CMAR will review and evaluate each bid received for completeness and adherence to the project requirements. CMAR will prepare a GMP based these bids received, along with the CMAR contingency, bonds, insurance, general conditions, and CMAR fee for review and approval by the Owner.

d. Scheduling: CMAR will finalize a detailed schedule based on the input from proposed bidders. The schedule will be resource loaded to reflect the GMP. A final cash flow projection will be provided to match the GMP.

Permitting Services Included

The CMAR will apply for and obtain the following permits:

- FDEP NPDES SWPP Permit. The Engineer will provide the stormwater pollution prevention plan. The CMAR will apply for and obtain the permit.
- City North Port Building Department Permit. The Engineer will provide necessary information required for the City of North Port Building Permit application. The CMAR will apply for and obtain the permit.
- FDEP Dewatering Permit. The contractor will apply for and obtain the FDEP Dewatering Permit.

Deliverables (CMAR)

CMAR will provide Owner with the following deliverables:

- Design review report
- Value Engineering report with anticipated savings
- Detailed cost estimates
- Detailed resource loaded schedule
- Schedule of values
- Project cash flow projection
- Subcontractor & supplier bid packages
- Guaranteed Maximum Price (GMP) for construction of the project

Period of Service

This scope of services are based on the being completed over a 4 month period from September 2017 through January 2018, commencing upon the execution of the contract.

EXHIBIT B
PRECONSTRUCTION SCOPE OF SERVICES FOR WEST VILLAGES CONSTRUCTION, LLLP DATED, SEPTEMBER 27, 2017

EXHIBIT B

CMAR SCOPE OF SERVICES

Preconstruction Scope of Services

$135,000 Cost for the prescribed Preconstruction Scope of Services and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP.

Costs for geotechnical investigations required for design are by others.

Indirect GMP Items (Construction General Conditions)

$1,500,000 Cost of the prescribed Indirect GMP Items excluding permits.
- $1,425,000 – Lump Sum
- $75,000 – Allowance Items as stated below

$1,500,000 CMAR Fee will be fixed $1.5M lump sum and 6% on any cost over $25M total GMP

0.40% CMAR Bond Rate

0.15% CMAR Insurance

Price does not include trailer for design engineer use.

Price includes a Florida professional land surveyor for initial survey and establishing initial control that Garney will use for layout during construction. Price includes $15,000 allowance for a Florida professional land surveyor to aid in completion of the certified as-builts.

Costs for geotechnical investigations required for design are by others.

The costs for the following items can be adjusted once the scope is clarified by receipt of project plans and specifications:

- We have included $50,000 as a construction testing allowance; however, suggest testing be included within the various bid packages.
- This price includes a $10,000 allowance for maintenance of traffic.
- Per item "O" in Exhibit C of the Indirect GMP Items Scope of Services, the cost of construction permits will be included as a separate allowance. The amount will be determined in conjunction with the Owner.

Insurance costs are based upon Garney's standard coverage, limits and deductibles provided within the table below. We have not included any project-specific coverage (owner's protective policy, pollution and professional liability, builder's risk, etc.) because the insurance requirements mentioned in Item #4 were not provided. Due to the impact of Hurricane Irma on the insurance market and not having been provided the desired limits, deductibles, and perils for this project, we are unable to speculate on what these costs might be.

Pricing does not include a dedicated QA/QC engineer or Safety professional.

The indirect costs are based on substantially completing work 640 calendar days from the date of Notice to Proceed. Each additional month beyond then will be an extra $65,225 plus CMAR markups.

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits
Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products-Completed Operations Aggregate	$2,000,000
	Personal Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

Garney CONSTRUCTION

373 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

September 27, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for $135,000. If Garney's services are utilized for the Construction Phase, this amount will be reduced to $90,000 and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP. Additionally, we assumed costs for geotechnical investigations required for design are by others. Garney's insurance limits are attached.

Preconstruction Scope of Services

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

We look forward to working with you and the rest of the Kimley-Horn and West Villages Construction team to successful deliver this project. If you have any questions, please advise.

In agreement to the understanding stated above, both parties will begin working in good faith to complete the preconstruction services while final contracts are executed in the near future.

GARNEY COMPANIES, INC.

(Signature and Date) 10/2/2017

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

(Signature and Date) 10/2/17

Paul J. Erhardt
Vice President

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits
Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal/Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$3,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

10/2/17

Garney CONSTRUCTION

373 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

November 17, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the Preconstruction Services per the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for the lump sum of $135,000, payable 50% on December 1, 2017 and the remaining after Garney submits the GMP. Based upon our agreement the cost for preconstruction services will not be reduced as Garney's General Conditions, originally submitted as $1,300,000 will be reduced to $1,240,000.00. All other provisions of the original September 27, 2017 letter remain in force.

GARNEY COMPANIES, INC.

(Signature and Date)

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

(Signature and Date)

Paul J. Erhardt
Vice President

Estimate for West Villages - General Conditions
General Conditions
Prepared by: ECM
Addenda Noted:
Planned Totals

Garney

Comments (Type, Phase)	Description	Quantity	Unit	Total Unit	Total LMH	Labor Unit	Labor Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
	Garney Indirects													
	Project Manager	18.0	Mnth	2114.0	172.000	38,394.63	167,199		0		0		0	167,199
	Senior / General Superintendent	19.0	Mnth	2114.0	173.000	9,564.98	172,168		0		0		0	172,168
	Clerk / Admin Secretary	18.0	Mnth	2114.0	171.000	1,947.36	34,452		0		0		0	34,452
	Project Engineer - Site	18.0	Mnth	2114.0	173.000	5,343.89	96,310		0		0		0	96,310
	Project Engineer - Office	8.0	Mnth	1261.0	173.000	3,721.09	42,193		0		0		0	42,193
	Business Development & Procurement	0.0	Ls	0.0		0	0		0		0	60,000	0	0
	Vehicle Allowances											FUEL	ALLOWANCE	
	Project Manager	18.0	Mnth				0		0		0	450	8,100	8,100
	Project Engineer - Field Engineer	36.0	Mnth				0		0		0	436	11,760	0
	Senior / General Superintendent	18.0	Mnth				0		0		0	809	10,900	1,870
	Setup													
	Garney's Office	18.0	Mnth	0.0	0.000	0.00	0		0		0	1,000	18,000	0
	Setup Garney Office	1.0	Ls	127.0	127.000	2,321.64	2,322	0.00	0	0.00	0	-	0	-
	Office Supplies	16.0	Mnth				0		0		0		0	300
	Computer Equipment	1.0	Ls				0		0		0		0	1,300
	Network Setup	1.0	Ls				0		0		0		0	1,000
	Copiers/Fax Machines	12.0	Mo				0		0		0	508.00	9,000	900
	Postage	18.0	Mo				0		0		0		0	95
	Reproduction Services	18.0	Mo				0		0		0		0	50
	Garney Phone/T1/Internet service	18.0	Mnth				0		0		0		0	500
	Sanitary Facility	18.0	Mnth				0		0		0		0	250
	Temp Power Utilities	18.0	Mnth				0		0		0		0	500
Markup	Temp Power Utilities	1.0	Ls				0		0		0		0	5,000
	Drinking Water	18.0	Mnth				0		0		0		0	150
	Temporary Waterside Trailers	1.0	Ls	40.000	40.000	840.53	841		0		0		0	1,500
	Phones	18.0	Mnth				0		0		0		0	150
	Video Survey	1.0	Ea	0.0		0.00	0		0		0		0	500
	Project sign	1.0	Ea	16.0	16.000	336.21	336		0		0		0	1,000
	Spill Containment Facility	1.0	Ls	0.0		0.00	0		0		0		0	2,500
	Drug Tests	6.0	Ea				0		0		0		0	10
	Trash Haul	18.0	Mnth				0		0		0		0	800
Item "J"	Project Layout	1.0	Ls	0.0		0.00	0		0		0	10,000.00	10,000	0
Item "K"	Commissioning Testing	1.0	Ls	0.0		0.00	0		0		0	50,000.00	50,000	0
	"Special Inspections"	1.0	Ls	0.0		0.00	0		0		0		0	0
Item "L"	As Built Drawings	1.0	Ls	0.0		0.00	0		0		0	15,000.00	15,000	0
Item "M"	Traffic Maintenance	1.0	Ls	0.0		0.00	0		0		0		0	10,000

Page 1 of 2

EXHIBIT C
INDIRECT GMP ITEMS

Estimate for West Villages - General Conditions
General Conditions
Prepared by: ECW
Addend a Name:
Filtered Totals

Classification (Sheet Data)	Description	Quantity	Unit	Total Hrs	MH/U	Labor Unit	Labor Total	Materials Unit	Materials Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
Item "A"	Start-up and O&M Manuals	1.0	LS	0.0		0.00	0		0		0		0		0	0
Item "B"	Permits (Garney to Pay For)	1.0	LS	0.0		0.00	0		0		0		0	w/ GMP		0
	Labor Burden	1.0	LS	0.0		0.00	0		0		0		0	439,162	439,162	439,162
	BID TOTALS:			14,016			567,901		0		77,000		57,000		551,219	1,253,120
	Monthly GC's (Allowance and fixed costs not included)															$ 65,233

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4843-5410-2865 14

-27-

EXHIBIT C

INDIRECT GMP ITEMS

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

February 13, 2018

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up (Substantial Completion) no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's indirect guaranteed maximum price (GMP) responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and GMP preparation. Specific services will include but are not limited to the following tasks.

Item #1 – General Conditions

a. Project Personnel: The CMAR shall provide qualified personnel for all positions, on-site and home office, full time and part-time, as necessary to manage the project site, including subcontractors and vendors, and administer the project to complete the construction project. At a minimum, the CMAR will provide a Project Manager, Project Superintendent, and a Project Engineer. These personnel shall be located on-site in the CMAR's field office full time for managing, coordinating, and directing all construction, administrative, and field activities. In addition, the CMAR shall provide personnel to assist with procurement, submittal reviews, cost estimating, scheduling, safety, quality control, clerical, and any other duties necessary to ensure all activities are performed in a timely and satisfactory manner. The CMAR shall include all labor burden, other payroll charges, travel costs, per diem charges, and all other costs necessary to support project personnel.

b. Temporary Facilities: The CMAR shall provide jobsite/field offices for on-site CMAR personnel to include all furniture, equipment, electric, HVAC, water service, sewer service, computer equipment, copiers, printers, internet service, office supplies and paper products, postage, shipping, document reproduction, lighting, telephone / internet service, and other appurtenances necessary to manage

and administer the Project.

c. Temporary Utilities: The CMAR shall provide installation, set-up, cleaning, and removal for all temporary facilities needed for the project. The temporary utilities shall include temporary electric, toilet facilities, potable water, monthly costs of all services and utilities, supplies and chemicals, and temporary electric service.

d. Site Security: The CMAR shall provide all site security to include personnel, temporary fencing, structures, and related facilities necessary to protect the construction site from damage and theft, including non-construction hours.

e. Safety: To include safety meetings, supervision, equipment, and devices necessary to provide a safe environment for all on-site personnel including Owner's personnel.

f. Housekeeping: To include labor, dumpsters, and all necessary appurtenances to provide clean-up throughout the duration of the project and clean-up at the end of the project.

g. Construction Material Waste Disposal: To include the timely removal and disposal of all construction debris.

h. Construction Photographs: To include monthly aerial photographs and construction progress photographs to effectively document the work in progress.

i. Project signs: Provide one (1) project sign 4' x 8'.

j. Project Layout: Provide survey services to establish benchmarks and control points necessary to layout and construct the project improvements.

k. Construction Testing: The CMAR shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents. The testing results shall be provided directly to the Owner's representative and Engineer throughout the Project. The CMAR shall be responsible for the costs of any retesting of failing components as identified by the independent testing laboratory. Material sampling and testing shall be in accordance with ASTM standards and the FDOT Standard Specifications for Road and Bridge Construction, latest edition, unless otherwise noted.

l. As-built Drawings: The CMAR shall provide surveyed as-built record drawings, prepared and certified by a professional land surveyor, documenting the horizontal and vertical location of all site improvements including paving, grading, drainage, underground utility construction, tank and weir elevations, top of well casing, and any other Project information to completely and accurately document the as-constructed condition of the Project. The as-built drawings shall include weekly submission of construction plan redline markups to the Engineer documenting actual construction progress.

m. Traffic Maintenance: The CMAR shall be responsible, during the course of construction, for proper maintenance control and detour of traffic in the area of construction. Traffic control and

Maintenance shall be in conformance with the Manual of Traffic Control and the FDOT Standard Index (600 Series). The Public shall, at all times, be protected by barricades, flashers, flagmen, and other safety devices as needed. All safety precautions shall be taken and all traffic controls shall be furnished, satisfactory to City, County, Department of Transportation, and/or any other governmental agency having jurisdiction, where partial or complete obstruction of streets is required for the performance of the work.

n. Start-up and O&M Manuals: To include all services necessary to coordinate with vendors and contractors to start-up and place equipment into service, including provision of training to Owner's personnel and video taping of training events. Also to include hard copies and electronic copy of all necessary O&M manuals for all equipment installed, started-up, modified and/or provided.

o. Permits: CMAR shall obtain and pay for all construction permits, licenses, inspection fees, and governmental charges necessary for the prosecution of the Work. All permitting fees and other permitting costs paid for by the CMAR will be included as an allowance in the GMP.

Item #2 – CMAR's Fee

The CMAR shall provide the percentage (%) fee that will be used to determine the CMAR's fee based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #3 – Bonds

The CMAR shall provide the percentage (%) to provide performance and payment bonds as required by the contract agreement. The % cost will be used to determine the bond cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #4 – Insurance

The CMAR shall provide the percentage (%) to provide insurance as listed on the attached insurance form. The % cost will be used to determine the insurance cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Period of Service

This scope of services is based on the Project being completed over a period from March 2018 through December 2019, with construction commencing upon the execution of the notice to proceed.

Garney CONSTRUCTION
ADVANCING WATER

WEST VILLAGES
SWWWRF

DATE 2.28.2018
PRINTED 9:29 AM

PROJECT NAME: WEST VILLAGES WRF 90% DESIGN BUDGET

GMP-1 WORK		
G1-010	Sitework and Site Utilities	1,370,000
	Contingency for Site Work	50,000
	Temporary Water Service	22,000
G1-020	Deep Injection and Monitoring Wells incl. Bond	NOT IN CONTRACT
G1-030	Prestressed Tanks	1,670,205
G1-040	Furnish Electrical Gear	1,062,807
G1-050	Furnish Generator	658,310
G1-060	Furnish Process Equipment	4,201,210
G1-070	Filters, Chlorine Contact, and Effluent Pump Station	4,031,113
	Owners Direct Purchase (ODP)	-338,861
	Watermain connection at US41	19,580
	Allowance for Forcemain connection at US41	135,000
	Maintenance of Traffic Allowance	10,000
	As-Built Survey Allowance	15,000
	Construction Testing Allowance	50,000
	Building Permit & Utility Inspection Fee	100,000
	Allowance: Assist Contract with Well Driller	100,000
	CMAR GCs	260,000
INDIRECT COSTS GMP-1		
0.15%	CMAR Insurance	21,458
0.40%	Payment & Performance Bond	57,220
6%	Construction Fee, 6%	809,703
GMP-1 TOTAL		14,304,745

Cover Letter

As described by its Preconstruction Services Agreement with West Villages, Garney Construction (Garney), has requested subcontractor bids and compiled an estimate for all work associated with the first phase of work for the Southwest Water Reclamation Facility. Accordingly, Garney offers the following Guaranteed Maximum Price (GMP-1) for the first phase of work described by the bid documents, and otherwise described by the Agreement.

For the Guaranteed Maximum Price of $14,304,745

Garney has included an Owner's contingency for GMP-1 in the amount of $460,000.00, which includes allowances for the items listed below

a. Forcemain Connection @ US41: $135,000
b. Sitework: $ 50,000
c. Traffic Maintenance: $ 10,000
d. As-Built Survey: $ 15,000
e. Construction Testing: $ 50,000
f. Permit & Inspection Fees: $100,000
g. Assist Contract with Well Driller $100,000

GMP-1 includes cost for performance and payment bonds, insurance, general conditions, construction administration costs, and construction management fee. Builders Risk Insurance is excluded and agreed to be the responsibility of West Villages per the Agreement.

Garney will serve as the CMAR, furnishing construction administration and management services and will use the CMAR efforts to perform the Work in accordance with the Contract Documents.

The Work is generally described as Sitework, Site Utilities, Prestressed Tanks, furnish Electrical Gear, furnish Generator, furnish Process Equipment, and installation of the Filters, Chlorine Contact Chamber, and Effluent Pump Station. A more detailed summary of work is described in Section 1.

This proposal is based on a Notice to Proceed date of March 1st, 2018.

Should you have any question, comment, or wish to discuss any of the above in greater detail, please feel free to contact us immediately.

Section 1: GMP #1

Reference the attached GMP #1 summary table for costs associated with each scope item.

SCOPE NARRATIVES

G1-010: Sitework and Site Utilities

a. Clear and grub project site within limits of construction.
b. All surveying required for GMP-1 scope of work.
c. Furnish and install erosion control devices in accordance with the Contract Drawings. Work includes silt fence, temporary construction entrance, inlet protection, sod around ponds, and sod at perimeter slopes.
d. Maintain erosion control devices and provide dust control as needed.
e. Excavate and grade ponds. Pond B-01 will be enlarged as necessary to provide additional fill material to build-up the project site.
f. Backfill and compact project site from existing grade to approximate final grade using only material excavated from ponds or from structure excavations.
g. Prepare subgrade at Reject Storage Tank including slab stone and access road around tank.
h. Backfill Reject Storage Tank to final grade.
i. Install temporary access roads and site staging area.
j. Furnish and install 12" DR25 PVC force main from the south side of US 41 to the first vertical bend upstream of the influent flow meter.
k. Furnish and install 8" DR18 PVC water main, fire hydrants, and 1" tap for service to the Control Building.
l. Furnish and install 8" DR14 PVC fire main and backflow assembly with FDC.
m. Furnish and install sanitary sewer system. Work includes all sanitary sewer manholes, installation of the Site Lift Station manhole, and all sewer piping to within ten feet of buildings.
n. Furnish and install storm drain system complete including all inlets, outlets, bubblers, culverts, and control structures. RCP pipe shall be Class III and HDPE pipe shall be ADS-N12.
o. WORK TO BE INCLUDED IN GMP2: asphalt paving, site concrete, landscaping, irrigation, littoral shelf, final grading, final sodding, site restoration, pond fountains, security fence, force main and water main tie-ins at US41, all yard pipe not noted herein
p. GMP-1 includes a $50,000 allowance for unforeseen conditions and future design improvements associated with the sitework. The allowance is intended to cover the following:
    - Rock Excavation
    - Undercut & Replace Unsuitable Soils
    - Additional Clearing to enlarge Bond B-01
    - Additional Silt Fence to enlarge Pond B-01
    - Additional Sodding to enlarge Pond B-01
    - Modify 12" Influent Force Main for future Connection

Section 3: Clarifications & Assumptions

The following clarifications and assumptions were used to develop the estimate for GMP-1.

General Items

1. GMP-1 material and subcontractor pricing is based on proposals from vendors and subcontractors. Material pricing is based on industry standard materials unless specifications were provided.
2. Sales tax has been included on all materials including Owner Direct Purchase. The tax savings for the ODP scope is provided as a deduct.
3. Electrical Permit Fees are Excluded (Carried with Building Permit)
4. Power Utility Development Charges for Permanent & Temporary Power are not included with GMP 1. The Electrical Engineer has recommended an allowance of $75,000 be set aside for this scope.
5. Generator Rental and Fueling for Temporary Power requirements prior to Line build out are NOT included.
6. Price does not include the Wrap-Up GL Policy
7. Wage rate calculations are included at the end of Section 6.

G1-010 – Sitework & Utilities

1. Assumed no rock excavation will be required.
2. Assumed 12" of under slab stone subgrade prep at all structures.
3. The entire influent force main is 12" diameter.
4. The 12" force main and 8" water main will be restrained per the Restrained Joint Tables for PVC shown on drawing C-23.
5. The storm drain system will be modified per drawings sent to Kimley-Horn on 1/26/18.
6. Elevations for the Site Lift Station shown on drawing M-17.1 will be as follows: T = -2.0', Y = 8.0', Z = 0.0'
7. IET liner system is included with the Site Lift Station and first manhole upstream of the lift station. No other special coatings for manholes are included.
8. No specifications were provided for Division 02. All sitework is assumed to be per the contract drawings, industry standards, and the draft geotechnical report dated 12/26/17.
9. Assumed using all onsite material for topsoil and structural backfill. No import fill costs are included. All fill material for the project site will be excavated from structures and ponds B-01, B-02, and B-03.
10. Pond B-01 will be enlarged to the south as necessary to provide additional fill. The enlarged pond will not affect any permits, easements, or adjacent properties. Additional clearing, silt fence, and sodding required for the larger pond will be paid for out of the Sitework Contingency.

G1-020 – Injection & Monitoring Wells

1. This scope is not in our Contract.

G1-030 – Prestressed Tanks

1. See analysis sheets in Section 5 for scope clarifications.

G1-040 – Furnish Gear Package

1. Schneider (Square D) gear package is the low-priced supplier for this project. Garney is waiting on final updates from Rexel which is providing quotations on the Cutler Hammer and Allen Bradley changes. Both proposals include equipment from the 98% Electrical documents. All VFD's are supplied as 6 Pulse VFD's with filters.
2. Garney has recently received updated Electrical Drawings on 2/9/18. Changes to the selected Gear Equipment will be updated within GMP 2.
3. Electrical Subcontract package will be complimentary to the gear scope and be responsible for reviewing shop drawings, unloading, storing, and installing equipment under this item.
4. If West Villages LLC proceeds with the "Owner Direct Purchase Program", Garney will provide a recommended PO to execute with the selected Gear manufacturer.
5. Rexel has requested using their own terms and conditions. Schneider has requested a few changes to be incorporated with the Garney terms and conditions.
6. Instrumentation and Control Estimates are included with GMP 2.
7. Electrical Subcontract Package is included with GMP 2.

G1-050 – Furnish Generator

1. Generator supply is specific to purchasing the Genset unit and ATS. All handling and installation of this equipment will be included in GMP 2.

G1-060 – Furnish Process Equipment

1. All gates will be provided with manual gate operators
2. All process equipment will be provided per the specifications unless as noted in correspondence with Kimley-Horn

G1-070 – Filters, Chlorine Contact, and Effluent Pump Station

Division 3 – Concrete

1. Reinforcing Steel Quantity based on 250 pounds/CY.
2. Rebar pricing based on current conversations with suppliers and installers.
    a. Furnish Rebar $850.00 / Ton
    b. Install Rebar $500.00 / Ton
    c. $175,418 rebar allowance included in GMP.1 (not including sales tax)
    d. A final adjustment will be made following bidding of Structural reinforcing steel requirements within GMP 2.
3. Structural Concrete is based on Hillsborough County Design Build project specs as e-mailed to Kimley-Horn on 1/31/2018 (attached).
4. Filter, Chlorine Contact/Effluent Pump Station structure concrete take-off is based on the red-lined markup sent to us by Kimley-Horn. All other structures are based on the mechanical drawings provided by Kimley-Horn.

Division 5 – Metals

1. Miscellaneous metals (walkways, platforms, supports, grating, stairs, hatches, etc.) were assumed to be aluminum.
2. Miscellaneous metals takeoff is based on the mechanical drawings. Structural requirements are not yet detailed, therefore member sizes, spacing, connection details, and other specifics were all assumed.
3. Assumed hose stations will be racks not hose reels.
4. Access hatches are based on standard Halliday products.

Division 15 – Yard Piping and Process Piping

1. Ductile Iron Yard Piping is based on the following:
    a. Minimum Pressure Class (PC) will be supplied for all Ductile Iron Pipe.
        i. 4" – 12" = PC 350
        ii. 14" – 20" = PC 250
        iii. 24" = PC 200
        iv. 30" = PC 150
    b. Restrained joints are per Kimley-Horn restrained joint tables shown on drawing C-23. Restrained joints are only included on pumped lines.
    c. Fitting are mechanical joint with Megalug type restraints.
    d. P401 pipe lining: Plant influent through Clarifier Influent, RAS, WAS, Scum, Grit.
    e. Cement Lining: Clarifier Effluent through Plant Effluent.
    f. Specific yard piping materials based on standard practice. No specifications available.
2. Yard piping included is based on current piping shown on P&ID and plan drawings.
3. Valve & operator types are based as shown on P&ID drawings.
4. All Check valves are outside lever and weight type.
5. Concrete thrust blocks are not included.
6. Poly wrap bagging included for ductile iron piping systems. Cathodic protection not included.
7. Deep trench safety design included where required.
8. Pipe bedding 6" below ductile iron pipe included. Crushed rock or similar bedding included.
9. No CLSM – flow fill bedding or backfill included.
10. Figured sufficient acceptable native soil for pipe trench backfill above pipe zone available on site. No import of soil included for backfill.
11. Wax tape wraps at buried flange bolts or coupling restraint rods are not included.
12. Trench dewatering included based on water elevations from soils report.
13. Pipe sleeve and pipe supports are hot dip galvanized, stainless steel not included.
14. Mechanical Joint sleeves for piping connections at structures are included.
15. Encasement of process piping below slabs is included.
16. Galvanized flange accessory bolts included at flanged connections.

G1-020: Deep Injection and Monitoring Wells

a. Installation of wells is not in our contract.
b. GMP-1 includes a $100,000 allowance for additional work associated with the removal of the Deep Injection Well subcontract. The allowance is intended to cover the following
   - Furnish, install and maintain silt fence for laydown area.
   - Clear, strip topsoil, install stone for laydown area.
   - Remove stone, silt fence, spread topsoil and seed laydown area upon completion of well.
c. WORK TO BE INCLUDED IN GMP2: concrete pad, well head piping, electrical, instrumentation & controls

G1-030: Prestressed Tanks

a. Work noted below is for the Secondary Clarifiers and Reject Tank
b. Excavation, dewatering, and slab stone
c. Furnish and install underslab piping and encasement
d. Furnish and install tank slabs, walls, and troughs
e. Paint Tank interior with two coats of TNEMEC 156 or equal
f. Paint Tank exterior with two coats of TNEMEC 66 or equal
g. WORK TO BE INCLUDED IN GMP2: miscellaneous metals, coatings (unless otherwise noted), pipe, equipment, electrical, instrumentation & control, startup / testing and final site cleanup.

G1-040: Furnish Electrical Gear

a. Furnish the following equipment in accordance with Division 16 Specifications including factory testing, spare parts, and field services:
   (4) Main Breakers, (4) Switchboards, (4) Motor Control Centers, (2) Power Panels, (5) Lighting Panels, (4) Lighting Contactors, (3) 45 kVA Transformers, (1) Mini Power Zone with Transformer, (8) Variable Frequency Drives, disconnect switches, shunt trips, and off/remote switches
b. The Owner has the option to direct purchase this equipment.

G1-050: Furnish Diesel Engine Generator

a. Furnish diesel engine generator per Section 16216 including factory testing, spare parts, and field services.
b. The Owner has the option to direct purchase this equipment.

G1-060: Furnish Process Equipment

a. Furnish equipment listed below including factory testing, spare parts, and field services. The Owner has the option to direct purchase this equipment.
b. Section 11130 – Odor Control Equipment
c. Section 11200 – Screening Washer
d. Section 11201 – Grit Removal Equipment
e. Section 11203 – Mechanical Fine Screens
f. Section 11204 – Sluiceway (U-Trough)
g. Section 11300 – Chemical Storage Tanks
h. Section 11301 – Chemical Metering Pumps
i. Section 11400 – Secondary Clarifier Equipment
j. Section 11401 – Screw Centrifugal Pumps
k. Section 11402 – Submersible Chopper Pumps
l. Section 11500 – Fine Bubble Diffusers
m. Section 11501 – High Speed Turbo Blowers
n. Section 11503 – Horizontal Dry Pit Pumps
o. Section 11550 – Coarse Bubble Diffusers
p. Section 11551 – Positive Displacement Blowers
q. Section 11552 – Decant System
r. Section 11600 – Gravity Filter System
s. Section 11601 – Vertical Lineshaft Pumps
t. Section 11700 – Centrifuge Package
u. Section 11800 – Fabricated Gates
v. Section 11900 – Submersible Pumps

G1-070: Filters, Chlorine Contact, and Effluent Pump Station

a. Excavation, dewatering, slab stone, and backfill
b. Furnish and install underslab piping and encasement
c. Furnish and install all concrete and reinforcing
d. Furnish and install metal stairs, handrail, hatches, and grating
e. Furnish and install all piping within five feet of structures – see drawing within proposal
f. Prepare subgrade at the Clarifiers.
g. Backfill Clarifiers to final grade.
h. Install equipment and inline instruments
i. Startup and testing.
j. WORK TO BE INCLUDED IN GMP2: coatings, electrical, inst. & control, exterior piping and site pads

WWW.GARNEY.COM Exhibit D1-4

Section 5: Sub & Supplier Bid Packages

EXHIBIT D2
GMP2 AMENDMENT

The following quotes were received for work associated with GMP-1 and are attached for reference.

G1-010: SITEWORK & SITE UTILITIES

G1-030: PRESTRESSED TANKS

G1-040: FURNISH ELECTRICAL GEAR

G1-050: FURNISH DIESEL ENGINE GENERATOR

G1-060: FURNISH PROCESS EQUIPMENT

GMP2 AMENDMENT (EXEMPLAR)

This GMP2 Amendment (the or this "GMP2 Amendment") is made to the Agreement Between Owner and Construction Manager (where the construction manager is also the constructor) (the "Agreement" or "Contract"), by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor"). All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement, the mutual covenants and agreements contained therein and in this GMP2 Amendment, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

ARTICLE A.1

§A.1.1 Guaranteed Maximum Price
Pursuant to Sections 2.1.5.2, 2.2.1.2, and 2.2.6 of the Agreement, the Owner and CMAR hereby amend the Agreement to establish the Guaranteed Maximum Price for the entire Work of the Project. As agreed by the Owner and CMAR, the Guaranteed Maximum Price is an amount that the Contract Price shall not exceed. The Contract Price consists of the CMAR's Fee plus the Cost of the Work, as that term is defined in Article 7 of the Agreement.

§ A.1.1.1 The Contract Price is guaranteed by the CMAR not to exceed _____ ($_____), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Attached to this GMP2 Amendment as Exhibit D2-1 is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the Guaranteed Maximum Price.

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

_____
_____
_____
_____
_____

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:

Item	Price ($0.00)

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

_____
_____
_____
_____
_____

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:

_____
_____
_____
_____
_____

[signature page follows]

4842-1924-4113.3

IN WITNESS WHEREOF, the parties hereto have caused this GMP2 Amendment to be executed effective upon issuance of the date last executed below (the "Effective Date").

CMAR

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
By _____
Name _____
Title _____
Date _____
State License No. _____
Expiration Date _____

OWNER

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By _____
Name _____
Title _____
Date _____

4842-1924-4113.3

EXHIBIT D2-1
(itemized statement of the GMP organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the GMP)

4842-1924-4113.3

EXHIBIT E
WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that:

1. Affiant is the _____ of **GARNEY COMPANIES, INC.**, a Missouri corporation d/b/a **GARNEY CONSTRUCTION** (the "CMAR").

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the CMAR, and (b) the facts stated herein are true and correct.

3. Pursuant to a contract between West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and CMAR dated _____ (the "Contract"), the CMAR has been engaged to furnish labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____ *{insert property description}* _____ (the "Property").

4. The CMAR has submitted a current Application for Payment to Owner in connection with this Release.

5. As of the date of this Release, the CMAR has performed, or caused to be performed, all of the work shown on the current Application for Payment submitted to Owner.

6. Upon receipt from Owner the payment in the amount of $_____, the CMAR hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract.

7. Attached hereto as **Exhibit E-1** is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit E-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of CMAR's activities pursuant or ancillary to the performance of its Contract with the Owner.

8. The CMAR hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through _____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract.

9. The CMAR further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the CMAR hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the CMAR's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit E-1 (if any).

10. This Release constitutes a representation by the CMAR that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The CMAR hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release.

11. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a **GARNEY CONSTRUCTION**

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)

_____
Printed Name: _____
NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires: _____

Exhibit E-1

EXHIBIT F
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP
19503 S. West Villages Parkway, #14
Venice, Florida 34293

{insert date}, 2018

VIA EMAIL to thehler@garney.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

Timothy M. Behler, Chief Operating Officer
Garney Companies, Inc.
370 E. Crown Point Road
Winter Garden, FL 34787

Re **NOTICE TO PROCEED**/Construction of the Southwest Wastewater Reclamation Facility ("SWWWRF") located within the West Villages Improvement District ("WVID")

Dear Mr. Behler:

Pursuant to Section 2.3.1.2 of the *{insert date}* Agreement between West Villages Construction, LLLP ("Owner") and Garney Companies, Inc. ("CMAR") (the "Agreement"), this letter hereby serves as Owner's Notice to Proceed the Construction Phase as such term is provided in the Agreement.

Sincerely,

Paul J. Erhardt, President

cc Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT G
FINAL AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that:

1. Affiant is the _____ of GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION (the "CMAR"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the CMAR.

2. Pursuant to a contract dated _____, 20__ (the "Agreement"), between West Villages Construction, LLLP, a Florida limited liability limited partnership and CMAR, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the CMAR has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The CMAR represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit G-1** (if any), attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner/Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit G-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the CMAR and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, CMAR hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the CMAR hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

10. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, related to the Property. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims to any other person or party.

DATED on _____, 201_.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name _____
NOTARY PUBLIC
Commission No. _____
State/Commonwealth of _____
My Commission Expires: _____

(Notarial Seal)

EXHIBIT H
INSURANCE REQUIREMENTS

EXHIBIT H
INSURANCE REQUIREMENTS

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CMAR INSURANCE REQUIREMENTS. All capitalized terms shall have the same meaning ascribed to them in the Agreement and General Conditions.

1. Owner shall purchase and maintain the following insurance policies and coverage with at the following minimum limits during the term of this Agreement and, as provided herein

   a. Builders Risk "all-risks" completed value or equivalent policy form and sufficient to cover

      i. The total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

      ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Engineer's and CMAR's services and expenses required as a result of such insured loss.

      iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include CMAR's or any Subcontractors machinery, tools or other equipment)

2. CMAR shall purchase and maintain the following insurance and required coverage with at least the following minimum limits as provided herein and in the Agreement and General Conditions

STANDARD GARNEY POLICY COVERAGES LIMITS

Type of Policy	Coverage	Standard Limits

Workers Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products-Completed Operations Aggregate	$2,000,000
	Personal & Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability, any auto	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$10,000,000
	General Aggregate	$10,000,000
	Products-Completed Operations Aggregate	$10,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

a Umbrella/Excess Liability Insurance Coverage shall be in excess of General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The CMAR shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that CMAR procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees.

b Contractor's "General Liability" policy shall be a policy pursuant to Section 6.03 of the General Conditions.

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
5. *Bidder*—An individual or entity that submits a Bid to Owner.
6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"), (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"), (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor or CMAR*—The individual or entity with which Owner has contracted for performance of the Work. Contractor shall have the same meaning as CMAR as provided in the Agreement.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and

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the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations, Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.

26. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.

27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

31. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.

32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.

33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.

35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

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36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

42. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

44. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

46. *Unit Price Work*—Work to be paid for on the basis of unit prices.

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47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day:*

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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E. *Furnish, Install, Perform, Provide:*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

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2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be

responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be entitled to an adjustment in the Contract Times and Contract Price for the actual extended General Conditions/General Requirements costs, and site operated equipment durations, and material cost increases for materials directly purchased by Contractor or any of its Vendors, Subcontractors or sub tier subcontractors. Except as specifically provided in the preceding sentence, Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

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3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its GMP and Progress Schedule. Owner will notify Contractor of any known encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility

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for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas, provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota

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County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the

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Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors, or time required for, performance of the Work; subject, however, to the following:
   a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
   a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
   b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
   c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

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5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
   a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
   b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
   c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
   d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

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E. *Possible Price and Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors or time required for, performance of the Work; subject, however, to the following:
   a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
   b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
   d. Contractor provided notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times or Contract Price, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times or Contract Price, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

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2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of available insurance with an aggregate of Five Million and No/100 Dollars ($5,000,000) Owner shall

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indemnify, defend and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, and up to the amount of Five Million and No/100 Dollars ($5,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:

1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.

3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply with all bond requirements after any assignment of the Agreement pursuant to Section 11.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit O to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and

documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
   a. Such insurance shall be maintained for three years after final payment.
   b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together), or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by

Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor, Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
   a. in the exercise of reasonable judgment Engineer determines that:
      1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) it has a proven record of performance and availability of responsive service; and

4) it is not objectionable to Owner.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Cost of the Work. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

a. shall certify that the proposed substitute item will:

1) perform adequately the functions and achieve the results called for by the general design,

2) be similar in substance to that specified, and

3) be suited to the same use as that specified.

b. will state:

1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;

2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Springs Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 11.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit O), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

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7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

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7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

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B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

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5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of Ten Million and No/100 Dollars ($10,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, Florida Statutes, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, Florida Statutes, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor,

any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except

design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. an itemization of the specific matters to be covered by such authority and responsibility; and

3. the extent of such authority and responsibilities.

B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and

other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the

responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by

Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

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11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

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b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of

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such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event

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giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise, or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

A. See Agreement, Article 7.

13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the GMP to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Notwithstanding any provisions regarding shared savings, any unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of

defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are

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stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing

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Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

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6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*:

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. the Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. the Contract Price has been reduced by Change Orders;

i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

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k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within three (3) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch

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list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.

2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

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15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*:

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents;

b. consent of the surety, if any, to final payment;

c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

d. a list of all disputes that Contractor believes are unsettled; and

e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work, except to the extent a Lien is attributable to Owner.

3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance*:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

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C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;

2. correct such defective Work;

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective; and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item

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may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule),
2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and
3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate

the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or
2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or
3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner, Contractor, nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to each other for any claims, costs, losses, or damages sustained by each other on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

EXHIBIT J
REQUEST FOR QUALIFICATIONS FOR CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES FOR THE SOUTHWEST WATER RECLAMATION FACILITY (WRF)

Request for Qualifications (RFQ)

For

Construction Manager at Risk (CMAR) Services

For

The Southwest
Water Reclamation Facility (SWWWRF)

Statements of Qualifications Due
Tuesday August 29th, 2017

RFQ for CMAR Services
for
The Southwest
Water Reclamation Facility (WRF)

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I. Introduction

Based on projected wastewater needs of the West Villages (WV) and proposed revised effluent standards, a new water reclamation facility (WRF) must be constructed and on-line no later than June 30, 2019 to maintain the WV development program. West Villages is seeking Statements of Qualifications (SOQs) from qualified firms (Proposers) offering Construction Manager at Risk (CMAR) services for the Project. Services will include design review of structural, mechanical, plumbing, electrical, architectural, site/civil, instrumentation, and process treatment facilities during the design phase; value engineering and constructability review / input; preliminary construction estimating and scheduling; management of project bidding, selection of sub-contractors; development of guaranteed maximum price (GMP) contracts; oversight/management of construction, and coordination with project engineering and the WV's project management staff.

The Project schedule is critical. Construction must be complete by May 31, 2019 and the WRF must be operational by June 30, 2019.

II. Scope of Work

The facilities to be constructed for the Southwest WRF (SWWRF) are described in the attached Preliminary Design Report (PDR), dated March 31, 2017. The SWWRF will generally consist of the following facilities:

1. Headworks – consisting of mechanical screening and grit removal.
2. A Modified Ludzack-Ettinger (MLE) treatment process – consisting of two 1.0 MGD treatment trains that include anoxic and aeration basins, submersible mixers, fine bubble aeration, dissolved oxygen (DO) control and ammonia monitoring systems, and an internal mixed liquor recycle (IMLR) pumping system.
3. Secondary clarification facilities – consisting of circular scraper type secondary clarifiers with dual skimmers and full radius scum removal, return activated and waste activated sludge (RAS and WAS) pumping systems, and scum pumps.
4. Deep bed sand filters – consisting of sand filtration and controls, and providing for the ability to convert the filters to denitrification filters should the need arise in the future to meet more stringent nitrogen limits.
5. High level disinfection – consisting of liquid sodium hypochlorite (NaOCl) disinfection with metering pumps and dual chlorine contact chambers.
6. Effluent transfer pump and deep injection well pump stations.
7. Reclaimed water high-service pump station.
8. A 2.0 MG prestressed concrete reject ground storage tank.
9. Onsite sanitary lift station.

10. Process Buildings:
    a. Blower building consisting of high speed turbo blowers and controls for the aeration system.
    b. Chemical storage (NaOCl).
    c. Solids handling.
    d. Motor Control Center (MCC) buildings.
11. Operations Building – consisting of offices, break room, restrooms/showers, process laboratory, and other miscellaneous rooms as generally described in the PDR.

III. Construction Manager at Risk (CMAR) Scope of Services

The specific CMAR scope of services will be completely defined in the final CMAR Service Agreement. A draft Service Agreement will be provided under a separate cover. Services to be provided will generally consist of the following:

Pre-construction

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

Construction Services

- Manage the construction process including coordination of all subcontractors, vendors, and equipment suppliers
- Manage equipment start-up and testing, assist the operations staff while placing the facility into operation, provide construction close-out documents including Operations and Maintenance Manuals, and provide as needed services during the post-construction warranty period.
- Prepare and manage the Project schedule and provide weekly detailed updates

- Establish and maintain all quality control standards
- Establish and enforce a Project-wide construction safety program

IV. General Requirements

All questions from Proposers are to be directed to the Engineer contact identified in Section IX - Contacts/Further Information.

Each Proposer is required to submit the following information on or before August 14, 2017 in a sealed box or envelope clearly labeled "Southwest Water Reclamation Facility CMAR Statement of Qualifications" to the WV.

1. Four bound hardcopies of SOQs
2. One electronic copy (CD or USB Flash Drive) of the complete SOQ in PDF format

V. Contents of SOQs

Each SOQ should include the following items in the order listed. SOQs not meeting the minimum qualifications herein could result in a rejection, without Proposer recourse.

- A signed cover letter from a principal of the Proposer identifying the Proposer's contact information, expressing interest in the Project, and certifying that sufficient resources in personnel and equipment are available to meet the construction deadline. The letter should describe the Proposer's structure, i.e., joint venture, corporation, etc. *(1 Page Maximum)*
- **Section 1 – Introduction** *(2 Pages Maximum)*: A statement of the Proposer's philosophy, goal, vision statements and/or guiding principles. Identify distinguishing factors that set the Proposer apart as the best firm to ensure Project success.
- **Section 2 – Project Approach** *(5 Pages Maximum)*: An outline of the proposed process to be used for the services to be rendered, including expected outcomes, timelines, and deliverables detailed for each critical phase. Identify assumptions and expectations regarding cooperation and assistance from the WV and Engineer.

  Include, as a minimum, descriptions of the following:
  (a) How the Proposer will ensure the Project will be constructed on-time and within budget.
  (b) The process that will be used to select vendors, sub-contractors, and other service providers for the Project.
  (c) Overview and key components of the Proposer's Safety Program
  (d) How budget and schedule will be managed

- **Section 3 – Project Team** *(4 Pages Maximum)*: Provide an organizational chart and resumesof Proposer's key project team members, including at a minimum, the following Project roles: Project Executive, Project Manager, Chief Estimator, Superintendent, and QA/QC Manager. Include a statement certifying that the proposed team members will not be changed for the duration of the Project without approval by the WVID. Highlight prior experience with wastewater treatment facility projects in Florida and CMAR experience.
- **Section 4 – Proposer Experience** *(5 Pages Maximum)*: Descriptions of five (5) previous projects completed in the last ten (10) years by the Proposer. The projects listed in this section must meet the following minimum qualifications:
  (a) The Proposer shall have completed, as prime contractor, at least five (5) wastewater treatment plant projects with a contract value exceeding $5,000,000 within the last ten (10) years.
  (b) The Proposer shall have completed, as prime contractor, at least three (3) wastewater treatment plant projects, in Florida, using Design-Build or Construction Manager at Risk (CMAR) delivery within the past ten (10) years. At least one (1) of the three (3) required projects must be a CMAR project with a minimum contract value of $20,000,000.

  Provide information on the five (5) projects using the form provided in *Appendix A – Form for Responding to Proposer Experience (this form may be recreated)*. Proposer may include one (1) additional page for each project to illustrate aspects of the completed project to assist the evaluation committee assess the Proposer's experience with relevant projects.
- **Section 5 – References:**

  Provide three (3) references for projects either in progress or completed during the last ten (10) years, which had a construction value of over $5.0 million at the time of performance. Provide these references using the form provided in *Appendix B – References Form (this form may be recreated)*.
- **Section 6 – Performance and Financial Data:** Provide each of the following items on the Appendix C Forms included at the end of the RFQ:
  (a) Proposer Safety Record
  (b) Termination Information
  (c) Surety Claims Information
  (d) Litigation, Arbitration, or Mediation Participation Information
  (e) Addenda Acknowledgement

Additionally, provide each of the following items:
(f) Florida General Contractor's License
(g) A letter from the responding Proposer's surety confirming the Proposer's ability to secure bonding for up to $30,000,000.

VI. Standard Insurance coverages carried by the Proposer. Anticipated RFQ Review and Selection Timeline

The anticipated timeline for the review of qualification statements and selection of a Proposer is as follows:

Wednesday August 23, 2017	RFQ Distributed
Tuesday August 29, 2017	SOQs Due (Close of Business)
Thursday August 31, 2017	Interviews

VII. Additional Information and Contacts

West Village appreciates your interest in providing services for this Project. For further information or questions regarding the content of this Request for Qualifications, please contact:

Ashley Miele, P.E.
Kimley-Horn and Associates, Inc.
1777 Main Street, Suite 200
Sarasota, FL 34236

APPENDICES

APPENDIX A– FORM FOR RESPONDING TO PROPOSER EXPERIENCE

1. Project Title and Location: _____
2. Project Description: _____
3. Owner's Name: _____
   Owner Contact Person and Phone Number: _____
4. Engineer of Record: _____
   Engineer Contact Person and Phone Number: _____
5. Total Project Cost: _____
6. Total Value of Change Orders: _____
   Owner Added: _____
7. Was construction completed within budget? (if not, provide explanation) _____
   _____
8. Project Duration (Dates): _____
   Construction Start Date _____ Completion Date: _____
9. Was construction completed within schedule? (if not, provide explanation) _____
   What was the original construction completion date? _____
10. Location of office(s) performing work: _____
11. Was applicant the prime contractor or subcontractor? _____
12. Did this project utilize alternative delivery (CMAR or Design-Build)? _____
13. What work was performed In-house? _____
14. Type/Scope of services provided: _____
15. Names of key team personnel for this project _____
16. Which members of your proposed team worked on this project? _____
17. What value engineering / constructability ideas were developed to reduce time and costs for the Owner?

_____

APPENDIX B– REFERENCES FORM

REFERENCE #1	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #2	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #3	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

APPENDIX C - PROPOSER SAFETY RECORD

Proposer Name: _____

Experience Modification Ratings (EMR)

Year	EMR Value	Explanation*
2016		
2015		
2014		
2013		

* Provide explanation of any value other than 1.00. Attach additional page(s) if necessary

OSHA-Recordable Incident Rate & Events

Year	2016	2015	2014
Rate			

ATTACH OSHA FORM 300 FOR EACH OF THE FOLLOWING YEARS:

2016, 2015, 2014

APPENDIX C - PROPOSER TERMINATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), identify any project(s) from which Proposer has been terminated in the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Project Start Date: _____
   Termination Date: _____
   Reason for Termination: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Project Start Date: _____
   Termination Date: _____
   Reason for Termination: _____
   _____
   _____
   _____

APPENDIX C - SURETY CLAIMS INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any claim(s) made against the Proposer's surety bond within the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Bond Type (e.g., Bid, Performance, Payment): _____
   Claim Amount: _____
   Reason for Claim: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Bond Type (e.g., Bid, Performance, Payment): _____
   Claim Amount: _____
   Reason for Claim: _____
   _____
   _____
   _____

APPENDIX C - LITIGATION, ARBITRATION, OR MEDIATION PARTICIPATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any project-related litigation, arbitration, or mediation in which the Proposer has been party within the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Parties to Action: _____
   Proposer Role: _____
   Events Precipitating Action: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Parties to Action: _____
   Proposer Role: _____
   Events Precipitating Action: _____
   _____
   _____
   _____

APPENDIX C - ACKNOWLEDGEMENT OF ADDENDA

Proposer Name: _____

Proposer acknowledges receipt of the following

Addenda: Number	Date
_____	_____
_____	_____

EXHIBIT K
RESOLUTION 2016-22, WVID

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

4843-5410-2865.14

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. **Purpose**
In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. **Scope**
These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. **Definitions**

A. **Agent**
The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. **Construction Services**
All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. **Contractor or Provider of Construction Services**
The entity or individual that provides Construction Services through direct contract with the District.

D. **Date Stamped**
Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. **Improper Invoice**
An invoice that does not conform to the requirements of a Proper Invoice.

F. **Improper Payment Request**
A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. **Non-Construction Goods and Services**
All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. **Proper Invoice**
An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. **Proper Payment Request**
A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. **Provider**
Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. **Purchase**
The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. **Vendor**
Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. **Proper Invoice/Payment Request Requirements**

A. **General**
Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. **Sales Tax**
Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. **Federal Identification and Social Security Numbers**
Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. **Proper Invoice for Non-Construction Goods and Services**
All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
    a. A complete item description
    b. Quantity purchased
    c. Unit price(s)
    d. Total price (for each item)
    e. Total amount of invoice (all items)
    f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
    a. Itemized description of services performed
    b. The location and date of delivery of the services to the District
    c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
    d. Itemization of other direct, reimbursable costs (including description and amount)
    e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
        i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
        ii. Paid receipt
        iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. **Proper Payment Request Requirements for Construction Services**
Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. **Submission of Invoices and Payment Requests**
The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. **Mailing and Drop Off Address**

   _____
   c/o _____
   _____
   _____

2. **Email Address**

   _____

VI. **Calculation of Payment Due Date**

A. **Non-Construction Goods and Services Invoices**

1. **Receipt of Proper Invoice**
Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. **Receipt of Improper Invoice**
If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:
   a. On which delivery of personal property is fully accepted by the District;
   b. On which services are completed and accepted by the District;
   c. On which the contracted rental period begins (if applicable); or
   d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. **Rejection of an Improper Invoice**
The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:
1. Be provided in writing,
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. **Payment of Undisputed Portion of Invoice**
If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. **Payment Requests for Construction Services**

1. **Receipt of Proper Payment Request**
The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. **Receipt and Rejection of Improper Payment Request**
a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. **Payment of Undisputed Portion of Payment Request**
If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. **Resolution of Disputes**

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. **Dispute between the District and a Contractor**
If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. **Dispute Resolution Procedures**

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. **Purchases Involving Federal Funds or Bond Funds**

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. **Requirements for Construction Services Contracts – Project Completion; Retainage**

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services
All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services
All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest
If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities, and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District, and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A**, is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

3

EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work
The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation
The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs
Other direct costs include items such as printing, drawings, travel, deliveries, et ceters, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By: _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

By: _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment 1

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.
NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____
2. Manufacturer or brand, model or specification number of the item.
_____
_____
3. Quantity needed as estimated by CONTRACTOR. _____
4. The price quoted by the supplier for the construction materials identified above.
$_____
5. The sales tax associated with the price quote. $_____
6. Shipping and handling insurance cost. $_____
7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____
Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____
Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____
Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____
Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____ _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vender.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____
Signature of Authorized Representative of Governmental Entity Title

West Villages Improvement District _____
Purchaser's Name Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

EXHIBIT M
RESOLUTION 2016-21, WVID

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as Exhibit A for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida*, as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes*.

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes*. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
  (a) District Counsel
  (b) District Engineer
  (c) District Manager
    1. Financial Report
    2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(a), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual,

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual,

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(J)(1)(e) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation; and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(16), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.033, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure.

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

   Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

   Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

   (a) The project is undertaken as repair or maintenance of an existing public facility;

   (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

   (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

   (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.064, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____ ___, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT N
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, ____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID")(West Villages and WVID are each a "Party" and collectively referred to as the "Parties") Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

WITNESSETH:

WHEREAS, West Villages and GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION ("CMAR") entered into that certain Agreement dated _____ ("Agreement") for the construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District, a copy of which Agreement, including all change orders approved to date, is attached and incorporated as **Exhibit N-1**;

WHEREAS, CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as **Exhibit N-2**;

WHEREAS, West Villages has obtained a release from CMAR acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising as a result of or connected with this Assignment, which is attached hereto as **Exhibit N-3**; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith, (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound; (iii) all approved payments to CMAR and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2. As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment.

3. This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida. The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties.

4. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Print Name: _____
Its: _____

"WVID"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit N-1
Agreement

See attached

Exhibit N-2
Bonds

See attached

Exhibit N-3
Release

See attached

GARNEY COMPANIES, INC , a Missouri corporation
d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10 00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Garney Companies, Inc. ("CMAR"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and CMAR dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID"). CMAR acknowledges and accepts such assignment and its validity.

2. CMAR represents and warrants that CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. CMAR represents and warrants that all payments to CMAR and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

_____(insert description of any outstanding dispute)

4. CMAR hereby releases and waives any claim it may have against the WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____day of _____, 201__.

"CMAR"

_____
Print Name _____

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____

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BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of GARNEY COMPANIES, INC., a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name _____
(Notarial Seal) NOTARY PUBLIC
Commission No. _____
State/Commonwealth of _____
My Commission Expires: _____

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EXHIBIT O
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the _____, __ 2018 Agreement between West Villages Construction, LLLP and Garney Companies, Inc., a Missouri corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as Exhibit O-1. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and CMAR, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS, NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the Florida Statutes, CMAR shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the Florida Statutes. Such bond and/or security shall be for 100% of the Project GMP and shall be in effect for a full year from the time of completion of the Project. CMAR agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), Florida Statutes. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. CMAR shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. CMAR shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If CMAR fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, CMAR shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

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4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the CMAR shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the Florida Statutes. CMAR shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), Florida Statutes.

5. INDEMNIFICATION. CMAR shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 8.1.6.3 and 8.1.6.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the CMAR an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the CMAR may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to CMAR. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the CMAR.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to CMAR that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided CMAR with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the CMAR shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the CMAR. Each Certificate of Entitlement will be in the format specified by Rule 12A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the CMAR will use in the identified public works, (2) the vendor's invoice will be issued directly to the WVID, (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds, (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. CMAR shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. CMAR understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the Florida Statutes, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the CMAR to allow public access to all documents, papers, letters, or other material made or received by the CMAR in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.

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CMAR shall return to WEST VILLAGES CONSTRUCTION I, LLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION I, LLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by CMAR to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, Florida Statutes or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
Attn: _____

With a copy to:
Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement pursuant to section 287.135(5), Florida Statutes, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-2**. If the CMAR is found to have submitted a false certification as provided in section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement under section 287.133(3)(a), Florida Statutes, regarding public entity crimes, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, CMAR shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit O-4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

"CMAR"

_____
Print Name _____
_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

_____
Print Name _____
_____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

"WVID"
WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

_____
Print Name _____
_____
Print Name _____

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit O-1: Agreement
Exhibit O-2: Scrutinized Companies Statement
Exhibit O-3: Public Entity Crimes Statement
Exhibit O-4: Trench Safety Act Statement

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EXHIBIT O-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Garney Companies, Inc.
(print name of entity submitting sworn statement)

whose business address is: 1333 NW Vivion Road, Kansas City, MO 64118

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

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EXHIBIT O-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), FLORIDA STATUTES, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Garney Companies, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 1332 NW Vivion Road, Kansas City, MO 64118

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

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Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), Florida Statutes, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2017

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4822-7022-7795.4

EXHIBIT O-4

See attached

4822-7022-7795.4

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS
Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

_____Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4822-7C22-7795.4

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total:	

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

4822-7C22-7795.4

EXHIBIT P
List of Permits Required for the Work Pursuant to 2.1.6.2

2/15/2018

West Villages SWWRF Permits

Agency	Permit Type	Responsibility	Status	Notes	Cost
FDEP	Domestic Wastewater Permit	Kimley-Horn	Submitted	Submitted by Bessler on 4/14/17	$1,000
FDEP	Class I Municipal Well	Kimley-Horn	Submitted	Submitted by Kimley-Horn on 1/25/18	TBD
FDEP	Environmental Resource Permit	Kimley-Horn	Approved	Issued February 19, 2018	$320
FDEP	Water/Wastewater Construction Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve Lennar's	TBD
USACE	Jurisdictional Determination (JD)	Kimley-Horn	Submitted	Anticipate JD to be issued mid March. The JD acknowledges that USACE will determine that wetlands are not in their jurisdiction therefore no USACE permit is required.	$0
FDOT	Water ROW Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve Lennar's	TBD
FDOT	Temporary Driveway Permit	Kimley-Horn	Submitted	Anticipate permit early March	$250
FDOT	Permanent Driveway Permit	Kimley-Horn	Not Submitted	Anticipate permit submittal early March	$250
City of North Port	Development Order	Kimley-Horn	Approved	Application has been reviewed and approved with conditions. We beg for Development Order to be issued by Planning Department.	$2,333
City of North Port	Land Clearing Permit	Garney	Not Submitted	Garney will submit the permit application after Owner approves GMP1 Agreement.	TBD
City of North Port	Affidavit of Best Management Practice Compliance	Garney	Not Submitted	Requires statement that to be registered with City of Northport	TBD
City of North Port	Building Permit	Kimley-Horn/ Garney	Not Submitted	Kh to complete signed & sealed plans/ Garney to submit application & schedule inspections	TBD
City of North Port	Fire Alarm Permit	Kimley-Horn/ Garney	Not Submitted	Kh to complete signed & sealed plans/ Garney to submit application & schedule inspections	TBD
SWFWMD or FDEP	Dewatering Permit	Garney	Not Submitted	Garney will submit the permit application after Owner approves GMP1 Agreement	TBD

4843-5410-2885.14

Exhibit N-2
Bonds

See attached

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address and Phone Number):

Garney Companies, Inc.
Attn: Timothy Behler
1333 NW Vivion Road
Kansas City, MO 64118
(321) 221-2830

SURETY (Name and Address of Principal Place of Business and Phone Number):

Western Surety Company, Ph: 313/822-5000
333 S. Wabash Avenue, Chicago, IL 60604
and
Liberty Mutual Insurance Company, Ph: 617/357-9500
175 Berkeley Street, Boston, MA 02116
as Co-Sureties

OWNER:

West Villages Improvement District
2501A Burns Road
Palm Beach Gardens, Florida 33410
(561) 630-4922

RECORDED IN OFFICIAL RECORDS
INSTRUMENT # 2018053365 10 PG(S)
April 25, 2018 11:21:00 AM
KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FL

CONTRACT:
Date: MARCH 9, 2018
Amount: Fourteen Million Three Hundred Four thousand Seven Hundred Forty Five & no/100 Dollars ($14,304,745.00)
Description (Name and Location): **WVID Southwest Wastewater Reclamation Facility Construction Project**

BOND:
Bond Number: Western No. 30032471 / Liberty No. 674207570
Date (Not earlier than Contract Date): MARCH 9, 2018
Amount: Fourteen Million Three Hundred Four thousand Seven Hundred Forty Five & no/100 Dollars ($14,304,745.00)

Modifications to this Bond Form: NONE

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL
Company: Garney Companies, Inc.

Signature: _____ (Seal)
Name and Title:

SURETY

Western Surety Company (Seal)
Surety's Name and Corporate Seal

By: Linda L. Nutt
Signature and Title Linda L. Nutt, Attorney-in-Fact
(Attach Power of Attorney)

Attest: _____
Signature and Title Surety Witness

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL
Company: Not Applicable

Signature: _____ (Seal)
Name and Title:

SURETY

Liberty Mutual Insurance Company (Seal)
Surety's Name and Corporate Seal

By: Linda L. Nutt
Signature and Title Linda L. Nutt, Attorney-in-fact
(Attach Power of Attorney)

Attest: _____
Signature and Title: Surety Witness

EJCDC No. C-610 (2002 Edition)
Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, and the American Institute of Architects.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

2. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.

3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:

3.1. Owner has notified Contractor and Surety, at the addresses described in Paragraph 10 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default, and

3.2. Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 3.1; and

3.3. Owner has agreed to pay the Balance of the Contract Price to:

1. Surety in accordance with the terms of the Contract;

2. Another contractor selected pursuant to Paragraph 4.3 to perform the Contract.

4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:

4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or

4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and Contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or

2. Deny liability in whole or in part and notify Owner citing reasons therefor.

5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 4.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

6. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To a limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

6.1. The responsibilities of Contractor for correction of defective Work and completion of the Contract;

6.2. Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

8. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions:

12.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.

12.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

Surety Agent:

Thomas McGee, L.C
920 Main Street, Ste. 1700
Kansas City, MO 64105
Ph: 816/842-4800

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Linda L. Nutt , **Individually**

of Kansas City, MO its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

Surety Bond No.: 30032471
Principal: Garney Companies, Inc.
Obligee: West Villages Improvement District

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 27th day of February, 2018.

WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 27th day of February, 2018, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2021

J. MOHR NOTARY PUBLIC SOUTH DAKOTA

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 9 day of MARCH, 2018

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees. To confirm the validity of this Power of Attorney call 610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint Linda L. Nutt of the city of Kansas City, state of MO its true and lawful attorney-in-fact, with full power and authority hereby conferred to sign, execute and acknowledge the following surety bond:

Principal Name: Garney Companies, Inc.

Obligee Name: West Villages Improvement District

Surety Bond Number: 674207570 **Bond Amount:** See Bond Form

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 6th day of March, 2017.

The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: _____
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 6th day of March, 2017, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: _____
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9 day of MARCH, 2017.

By: _____
Renee C. Llewellyn, Assistant Secretary

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address and Phone Number):

Garney Companies, Inc.
Attn: Timothy Behler
1333 NW Vivion Road
Kansas City, MO 64118
(321) 221-2830

SURETY (Name and Address of Principal Place of Business and Phone Number):

Western Surety Company, Ph: 313/822-5000
333 S. Wabash Avenue, Chicago, IL 60604
and
Liberty Mutual Insurance Company, Ph: 617/357-9500
175 Berkeley Street, Boston, MA 02116
as Co-Sureties

OWNER:

West Villages Improvement District
2501A Burns Road
Palm Beach Gardens, Florida 33410
(561) 630-4922

CONTRACT:
Date: MARCH 9, 2018
Amount: Million Three Hundred Four thousand Seven Hundred Forty Five & no/100 Dollars ($14,304,745.00)
Description (Name and Location): **WVID Southwest Wastewater Reclamation Facility Construction Project**

BOND:
Bond Number: Western No. 30032471 / Liberty No. 674207570
Date (Not earlier than Contract Date): MARCH 9, 2018
Amount: Million Three Hundred Four thousand Seven Hundred Forty Five & no/100 Dollars ($14,304,745.00)

Modifications to this Bond Form: NONE

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

CONTRACTOR AS PRINCIPAL
Company: Garney Companies, Inc.

Signature: _____ (Seal)
Name and Title:

SURETY

Western Surety Company (Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title Linda L. Nutt, Attorney-in-Fact
(Attach Power of Attorney)

Attest: _____
Signature and Title Surety Witness

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL
Company: Not Applicable

Signature: _____ (Seal)
Name and Title:

SURETY

Liberty Mutual Insurance Company (Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title Linda L. Nutt, Attorney-in-Fact
(Attach Power of Attorney)

Attest: _____
Signature and Title: Surety Witness

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to promptly pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:

2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2. Claimants who do not have a direct contract with Contractor:

1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and

2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and

3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:

6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2. Pay or arrange for payment of any undisputed amounts.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY – Name, Address and Telephone
Surety Agency or Broker:
Owner's Representative (engineer or other party):

Thomas McGee, L.C
920 Main Street, Ste. 1700
Kansas City, MO 64105
Ph: 816/842-4800

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Linda L. Nutt , **Individually**

of Kansas City, MO its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

Surety Bond No.: 30032471
Principal: Garney Companies, Inc.
Obligee: West Villages Improvement District

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 27th day of February, 2018.

WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 27th day of February, 2018, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2021

J. MOHR
NOTARY PUBLIC
SOUTH DAKOTA

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 9 day of MARCH, 2018

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees. To confirm the validity of this Power of Attorney call 610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Linda L. Nutt of the city of Kansas City, state of MO its true and lawful attorney-in-fact, with full power and authority hereby conferred to sign, execute and acknowledge the following surety bond:

Principal Name: Garney Companies, Inc.

Obligee Name: West Villages Improvement District

Surety Bond Number: 674207570 **Bond Amount:** See Bond Form

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 6th day of March, 2017.

The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: _____
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 6th day of March, 2017, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: _____
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9 day of MARCH, 2018.

By: _____
Renee C. Llewellyn, Assistant Secretary

Exhibit N-3
Release

See attached

GARNEY COMPANIES, INC., a Missouri corporation
d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Garney Companies, Inc. ("CMAR"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and CMAR dated 3/9/2018, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID"). CMAR acknowledges and accepts such assignment and its validity.

2. CMAR represents and warrants that CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. CMAR represents and warrants that all payments to CMAR and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

   _____{insert description of any outstanding dispute}

4. CMAR hereby releases and waives any claim it may have against the WVID as a result of or in connection with such assignment.

In witness whereof, executed this 23rd day of MARCH, 2018.

Print Name ERIC C. WAGNER

Print Name CAROLYN FRACERS

"CMAR"

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: COO - Eastern Plant Operations
Date: 3/23/18

STATE OF FLORIDA
COUNTY OF Orange

BEFORE ME, the undersigned authority, personally appeared Timothy M Behler, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **GARNEY COMPANIES, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)



Printed Name: Tracy K Winsor
NOTARY PUBLIC
Commission No.: GG 43575
State/Commonwealth of FL
My Commission Expires: 12/7/2020

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the March 9 2018 Agreement between West Villages Construction, LLLP and Garney Companies, Inc., a Missouri corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit O-1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and CMAR, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the Florida Statutes, CMAR shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the Florida Statutes. Such bond and/or security shall be for 100% of the Project GMP and shall be in effect for a full year from the time of completion of the Project. CMAR agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), Florida Statutes. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. CMAR shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. CMAR shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If CMAR fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, CMAR shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the CMAR shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the Florida Statutes. CMAR shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), Florida Statutes.

5. INDEMNIFICATION. CMAR shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 8.1.6.3 and 8.1.6.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the CMAR an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the CMAR may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to CMAR. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the CMAR.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to CMAR that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided CMAR with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the CMAR shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the CMAR. Each Certificate of Entitlement will be in the format specified by Rule I2A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the CMAR will use in the identified public works; (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. CMAR shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. CMAR understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the Florida Statutes, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the CMAR to allow public access to all documents, papers, letters, or other material made or received by the CMAR in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.

CMAR shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by CMAR to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, Florida Statutes or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID:	West Villages Improvement District 2501 Burns Road Palm Beach Gardens, Florida 33410 Attn: Todd Wodraska
With a copy to:	Hopping Green & Sams, P.A. 119 South Monroe, Suite 300 (32301) Post Office Box 6526 Tallahassee, Florida 32314 Attn: Jonathan T. Johnson

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement pursuant to section 287.135(5), Florida Statutes, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-2**. If the CMAR is found to have submitted a false certification as provided in section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement under section 287.133(3)(a), Florida Statutes, regarding public entity crimes, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, CMAR shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that CMAR is able to

execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit O-4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

Print Name Tracy Winsor

Print Name Carolyn Fracek

"CMAR"

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By:
Name: TIMOTHY M BEHLER
Title: COO Eastern Plant Operations
Date: 3/23/19

Print Name Lindsay Whelan

Print Name Todd Wodraska

"WVID"

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By:
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit O-1: Agreement
Exhibit O-2: Scrutinized Companies Statement
Exhibit O-3: Public Entity Crimes Statement
Exhibit O-4: Trench Safety Act Statement

Exhibit O-1

See attached

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
(Owner)

AND
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
(Construction Manager at Risk "CMAR" or "Contractor")

March 9, 2018

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER (where the construction manager is also the constructor) (the "Agreement" or "Contract") is dated and made on the 9th day of March, 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor").

Owner information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@miattamycorp.com

CMAR information:
GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118
CMAR's designated representative:
Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 - office
(321) 229-7221- mobile
tbehler@garney.com

Project information:
Construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District (WVID). The Project includes design, constructability analysis, value engineering, supervising control and data acquisition integration (SCADA) in accordance with all Laws and Regulations, permits and other requirements of the West Villages Improvement District, City of North Port, the Florida Department of Environmental Protection (FDEP) and such other agency or district. The CMAR will work with the Owner and Engineer to complete the Project design, construction, and start-up at which time ownership and operations of the fully functional facility will be turned over to the West Villages Improvement District or City of North Port. This Agreement may be assigned by Owner without notice to the WVID or such other agency.

Engineer information:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.

(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

Unless context otherwise requires, or as specifically set forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as Exhibit I.
The Owner and CMAR agree as follows:

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 CMAR RESPONSIBILITIES

3 OWNER RESPONSIBILITIES

4 ENGINEER

5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE

6 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE

7 COST OF WORK FOR CONSTRUCTION PHASE

8 PAYMENT PROCEDURES

9 INSURANCE AND BONDS

10 ENUMERATION OF CONTRACT DOCUMENTS

11 MISCELLANEOUS

12 TERMINATION OR SUSPENSION

13 DISPUTE RESOLUTION

ARTICLE 1. GENERAL PROVISIONS

§1.1 CMAR has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means and methods dictated by design parameters in the Contract Documents. CMAR covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner; (ii) provide efficient construction administration, management services and supervision; (iii) provide at all times an adequate supply of workers and materials; and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Laws and Regulations, and the Contract Times.

§1.2 Neither CMAR nor any of CMAR's employees shall be deemed employees of the Owner for any purpose whatsoever; CMAR being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

§1.3 For the Preconstruction Phase, the General Conditions, shall apply only as specifically provided in this Agreement. For the Construction Phase, the General Conditions shall be as set forth in the General Conditions, which document is incorporated herein by reference. The term "Contractor" as used in the General Conditions shall mean the CMAR.

ARTICLE 2. CMAR RESPONSIBILITIES

CMAR shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. CMAR shall provide all services, deliverables and perform all Work more specifically described in the Contract Documents. The CMAR's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2 of this Agreement. CMAR's Construction Phase responsibilities are set forth in Section 2.3 and the General Conditions. The Owner and CMAR may agree, in consultation with the Engineer, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The CMAR has identified its Chief Operating Officer, Timothy M. Behler, who is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.1 Preconstruction Phase
§ 2.1.1 The CMAR shall provide all services and deliverables identified in the "PRECONSTRUCTION SCOPE OF SERVICES, Southwest Wastewater Reclamation Facility (Project)", dated September 13, 2017, incorporated herein and attached hereto as Exhibit A, and the "West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP" dated, September 27, 2017 and modified on November 17, 2017, incorporated herein and attached within Exhibit B, at such times reflected in Exhibits A and B, time being of the essence. CMAR's services specifically include a review of structural, mechanical, plumbing, electrical, architectural, Site/civil design for the completion of the Work. On the Effective Date, the Contract Documents relating to Sections 2.1 and 2.2 shall be fully incorporated into Exhibits A and B, *nunc pro tunc*.

§ 2.1.2 Consultation
The CMAR shall schedule and conduct meetings with the Engineer and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The CMAR shall advise the Owner and the Engineer on proposed Site use and improvements, selection of materials, and building systems and equipment. The CMAR shall also provide recommendations consistent with the Project requirements to the Owner and Engineer on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 Progress Schedule
Upon reaching the design percentages reflected in Exhibit A, the CMAR shall prepare and periodically update a Progress Schedule for the Engineer's review and the Owner's acceptance. The Progress Schedule shall coordinate and integrate the CMAR's services, the Engineer's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The Progress Schedule shall include the following: submission of the Guaranteed

Maximum Price proposal; components of the Work, times of commencement and completion required of each Subcontractor; Milestones, ordering and delivery of products, including those that must be ordered well in advance of construction; and other requirements of the Owner.

§ 2.1.4 Phased Construction
CMAR shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The CMAR shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates
§ 2.1.5.1 Upon reaching the design percentages reflected in Exhibits A and B, the CMAR shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Engineer's review and Owner's approval. If the Engineer or CMAR suggests alternative materials and systems, the CMAR shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 At appropriate intervals reflected in Exhibits A and B, CMAR shall prepare detailed cost estimates of the Cost of the Work of increasing detail and refinement, allowing for further development of the design until such time as the Owner and CMAR agree on a Guaranteed Maximum Price ("GMP") for the Work (the term "GMP" shall collectively refer to GMP1 and GMP2, as hereafter defined). The CMAR shall inform the Owner and Engineer when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Bidding, Permitting and Long Lead Items
The CMAR shall develop bidders' interest in the Project and provide such services for GMP development described in Exhibit A.

§ 2.1.6.1 CMAR shall prepare, for the Engineer's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The CMAR shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. Upon the establishment of the GMP, the Owner shall assign all contracts for these items to the CMAR and the CMAR shall thereafter accept responsibility for them.

§ 2.1.6.2 The CMAR shall take commercially reasonable efforts to apply for and obtain all permits reflected in Exhibit P.

§ 2.1.7 Notices and Compliance with Laws
The CMAR shall comply with all Laws and Regulations applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.

§ 2.2 GMP Development
§ 2.2.1 Upon reaching the design percentages reflected in Exhibits A and B, and in consultation with the Owner and Engineer, the CMAR shall prepare a GMP proposal for the Owner's review and acceptance. The GMP proposal shall be the sum of the CMAR's estimate of the Cost of the Work and the CMAR's Fee.

§ 2.2.1.1 GMP 1. Owner and CMAR have agreed on a GMP for portions of the Work identified in Exhibits D1-1 through D1-5 ("GMP1"). The Contract Price for the Work reflected in GMP1 is guaranteed by the CMAR not to exceed Fourteen Million Three Hundred Four Thousand Seven Hundred Forty Five and No/100 Dollars ($14,304,745.00) subject to additions and deductions by Change Order as provided by the Contract Documents. Exhibits D1-1 through D1-5 are itemized statements of GMP1 organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP1.

§ 2.2.1.2 GMP 2. In addition to the GMP1, and in accordance with the provision of Sections 2.2.6 and 6.2 of this Agreement, CMAR shall propose to Owner for Owner's consideration and written approval, a GMP2, which shall represent the CMAR's Contract Price for the entire Project and all Work. The GMP2 shall include all amounts previously agreed upon within GMP1 and shall be organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise GMP2.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Engineer, the CMAR shall provide in the GMP2 for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The CMAR shall include with the GMP2 proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the conditions of the Contract;
.2 A list of the clarifications and assumptions made by the CMAR in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
.3 A statement of the proposed GMP2, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the CMAR's Fee;
.4 The anticipated date of Substantial Completion upon which the proposed GMP2 is based; and
.5 All indirect GMP services and General Conditions/General Requirements identified in the "INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, incorporated herein and attached hereto as Exhibit C;
.6 A date by which the Owner must accept the GMP2.

§ 2.2.4 The CMAR shall meet with the Owner and Engineer to review the GMP2 proposal. In the event that the Owner and Engineer discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CMAR, who shall make appropriate adjustments to the GMP2 proposal, its basis, or both.

§ 2.2.5 If the Owner notifies the CMAR that the Owner has accepted the GMP2 proposal in writing before the date specified in the GMP2 proposal, the GMP2 proposal shall be deemed effective without further acceptance from the CMAR. Following acceptance of the GMP2, the Owner and CMAR shall

execute the Guaranteed Maximum Price Amendment, an exemplar form of which is attached hereto as Exhibit D2, (the "GMP2 Amendment") amending this Agreement, a copy of which the Owner shall provide to the Engineer. The GMP2 Amendment shall set forth the agreed upon, guaranteed Contract Price for the entire Work of the Project with the information and assumptions upon which it is based.

§ 2.2.7 The CMAR shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs. Any such costs incurred by CMAR shall be borne solely by CMAR without any reimbursement from Owner.

§ 2.2.8 The Owner will authorize the Engineer to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the GMP2 Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the CMAR as they are revised. The CMAR shall promptly notify the Owner and Engineer of any inconsistencies of which it has knowledge between the GMP2 Amendment and the revised Drawings and Specifications.

§ 2.2.9 The CMAR shall include in the GMP2 all sales, consumer, use and similar taxes for the Work provided by the CMAR that are legally enacted at the time the GMP2 Amendment is executed.

§ 2.3 Construction Phase
§ 2.3.1 General
§ 2.3.1.1 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as Exhibit F.

§ 2.3.1.3 CMAR's Designated Representative
CMAR's designated representative is authorized to act on behalf of the CMAR with respect to the Project.

§ 2.3.2 Contract Times
§ 2.3.2.1 Substantial Completion.
Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.3.1.2 of this Agreement. CMAR shall achieve Substantial Completion of the entire Work within 640 calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. CMAR shall finally complete the Work and satisfy all conditions to final completion and final payment within 30 calendar days from Substantial Completion, time being of the essence.

§ 2.3.2.2 Liquidated Damages.
CMAR understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if CMAR fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then CMAR shall pay Owner as liquidated damages and not by way of penalty, the following:

- Three Thousand and No/100 Dollars ($3,000.00) per calendar day, for the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work within the specified time; and
- Six Thousand and No/100 Dollars ($6,000.00) per calendar day, after the first thirty (30) calendar days the CMAR fails to achieve Substantial Completion of the entire Work.

The liquidated damages specified herein are in addition to any other damages Owner is entitled to under the Agreement or at law that are not related to delays in the Work. In the event Owner withholds or deducts any money or payment due from CMAR for liquidated damages, CMAR shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due CMAR under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements CMAR has with Owner. In the event no money is due the CMAR, then CMAR shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

CMAR expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that CMAR fails to substantially complete the Work in a timely manner. Owner agrees and acknowledges that the liquidated damages are the sole and exclusive remedy available to the Owner with respect to any damages it sustains as a result of delay. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3.3 Administration
§ 2.3.3.1 Prior to any assignment to West Villages Improvement District provided in 11.2 of this Agreement, those portions of the Work that the CMAR does not customarily perform with the CMAR's own personnel shall be performed under subcontracts or by other appropriate agreements with CMAR. Owner may designate specific persons from whom, or entities from which, the CMAR shall obtain bids. CMAR shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Engineer. The Owner shall then determine, with the advice of CMAR and the Engineer, which bids will be accepted. CMAR shall competitively bid work it customarily performs with its own personnel and receive at least three (3) bids for all Work to be performed by Subcontractors that is in excess of One Hundred Thousand and No/100 Dollars ($100,000.00).

§ 2.3.3.1.1 Notwithstanding the provisions of 2.3.3.1, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as Exhibit L and Exhibit M, respectively.

§ 2.3.3.2 CMAR Self-Performed Work

Unless otherwise agreed to in writing by Owner, any portion of the Work that CMAR customarily performs with its own personnel that is in excess of One Hundred Twenty Five Thousand and No/100 Dollars ($125,000.00) shall competitively bid. CMAR shall receive no fewer than three (3) bids from non-affiliated entities (unrelated parties) for all Work CMAR intends to self-perform. All such bids shall be provided to Owner and Engineer upon submission of the GMP2 proposal. Notwithstanding the provisions of 2.3.3.2, after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02 and Resolution 2016-21, copies of which are attached hereto and incorporated herein as Exhibit L and Exhibit M, respectively.

§ 2.3.3.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the CMAR recommends a specific bidder that may be considered a "related party, then the CMAR shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction.

§ 2.3.3.4 CMAR shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The CMAR shall prepare and promptly distribute minutes to the Owner and Engineer.

§ 2.3.3.5 Upon executing the GMP2 Amendment, CMAR shall prepare and submit to the Owner and Engineer a preliminary Progress Schedule for the Work, preliminary Schedule of Submittals, and preliminary Schedule of Values in accordance with Section 2.03 of the General Conditions.

§ 2.3.3.6 On a monthly basis, or otherwise as agreed to by the Owner, CMAR shall submit written progress reports to the Owner and Engineer, showing percentages of completion and other information required by the Owner. CMAR shall also keep, and make available to the Owner and Engineer, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on Site, identification of equipment on Site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner. The daily log shall be available immediately upon request of the Engineer or Owner.

§ 2.3.3.7 CMAR shall develop a system of cost control for the Work, including daily monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. CMAR shall identify potential variances between actual and estimated costs and report the variances to the Owner and Engineer and shall provide this information in its monthly reports to the Owner and Engineer.

§ 2.3.3.8 CMAR shall inspect the Work of the Subcontractors daily for defects and deficiencies in the Work.

§ 2.3.3.9 CMAR shall maintain at the Site, records of all contracts, Drawings, Samples, Submittals, purchases, materials, equipment, maintenance and operating manuals, instructions, and other construction related documents, including all revisions. CMAR shall obtain data from subcontractors and maintain a current set of record Drawings, Specifications and operating manuals. At the completion of the Project, CMAR shall deliver all such records to the Owner.

§ 2.3.3.10 CMAR shall protect all materials, equipment, completed and partially completed Work from loss and damage including theft and damage by weather. CMAR warrants that all materials and

equipment procured by CMAR and included in the Work will be new, free from defects and in accordance with the Drawings and Specifications, but makes no such warranty as to materials and equipment directly purchased by Owner. CMAR warrants that the Project shall be built and constructed without error, flaw or omission, in compliance with all Laws and Regulations and in strict conformance with the requirements of the Drawings and Specifications.

ARTICLE 3. OWNER RESPONSIBILITIES

§ 3.1 Information

§ 3.1.1 The Owner has provided information regarding requirements for and limitations on the Project. The Owner has established an overall budget for the Project. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the CMAR.

§ 3.1.2 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the Site, and a legal description of the Site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the Site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees.

§ 3.1.3 Owner, when such services are required, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4 Owner shall make timely payments to CMAR and in accordance with Article 9 and Article 15 of the General Conditions.

ARTICLE 4. ENGINEER.

The Project is being designed by the Engineer with assistance by the CMAR. The Engineer will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 5. COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE.

§ 5.1 Compensation

§ 5.1.1 For the CMAR's Preconstruction Phase services, the Owner shall compensate the CMAR a stipulated lump sum of ($135,000).

§ 5.1.2 Compensation based on direct personnel expense includes the direct salaries of the CMAR's personnel providing Preconstruction Phase services on the Project, including project engineer to assist with permitting requirements, and the CMAR's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 5.2 Payment for Preconstruction Phase Services

§ 5.2.1 The payment for Preconstruction Phase services shall be made upon completion of all the services and deliverables.

§ 5.2.2 CMAR acknowledges that it was paid and has received fifty percent (50%) of its stipulated lump sum for the Preconstruction Phase Services. Payment of the remainder of the lumps sum is due upon final completion of the Preconstruction Phase Services and payable upon presentation of the CMAR's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of four percent (4%) per annum. CMAR shall accompany each invoice with a Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment in the form attached hereto as Exhibit E.

§ 5.2.3 Notwithstanding the provisions of 5.2.2., after any assignment to West Villages Improvement District provided in 11.2 of this Agreement, CMAR shall comply with all Laws and Regulations of the WVID, including Resolution 2016-22, a copy of which is attached hereto and incorporated herein as Exhibit K.

ARTICLE 6. COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE.

§ 6.1 For the CMAR's performance of the Work as described in Section 2.3, the Owner shall pay the CMAR the Contract Price in current funds. The Contract Price is the Cost of the Work as defined in Section 7.1.1 plus the CMAR's Fee.

§ 6.1.1 The CMAR's Fee:

A fixed fee of One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00). CMAR may also receive as an additional fee, six percent (6%) of any GMP that is in excess of Twenty Five Million and No/100 Dollars ($25,000,000). By way of example only, if the GMP is $26,000,000 then CMAR shall receive a $1,500,000 fixed fee together with 6% of the additional $1,000,000 over the $25,000,000 GMP, for a total CMAR Fee of $1,560,000.

§ 6.1.2 The method of adjustment of the CMAR's Fee for changes in the Work:

Six percent (6%) of the change in the Work.

§ 6.1.3 Costs for Construction General Conditions/General Requirements

CMAR's "Construction General Conditions/General Requirements" are attached hereto and incorporated herein as Exhibit C, and shall be a fixed lump sum amount not to exceed $1,425,000 and $75,000 of allowances as per Exhibit B. If the date of Substantial Completion extends past 640 calendar days from the date of Notice to Proceed, through no fault of the CMAR, then applicable extended Construction General Conditions/General Requirements shall be the actual costs of the General Conditions/General Requirements incurred but it no event shall said General Conditions/General Requirements exceed $65,000 per month. If the total amount of the General Conditions/General Requirements are less than the lump sum reflected in Exhibit B, all savings shall belong to the CMAR.

§ 6.1.4 Rental rates for CMAR-owned equipment shall not exceed the standard rate paid at the place of the Project.

§ 6.2 Guaranteed Maximum Price

§ 6.2.1 CMAR guarantees that the Contract Price shall not exceed the Guaranteed Maximum Price set forth in the GMP2 Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the CMAR shall be responsible for such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

§ 6.2.1.1 If upon final completion of the Work, the total Cost of the Work plus the CMAR's Fee is less than the GMP, as adjusted in accordance with this Agreement, then the difference shall be "savings". The savings shall be allocated as follows: (a) eighty percent (80%) to Owner; and (b) twenty percent (20%) to CMAR. Savings shall not include any deletions from the scope of Work under this Agreement.

§ 6.2.2 The GMP is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may order changes in the Work consisting of additions, deletions or other revisions as provided in Article 11 of the General Conditions. The Owner shall issue such changes in writing. The Engineer may make minor changes in the Work as provided in Section 11.01 of the General Conditions.

§ 6.3.2 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" shall mean the Cost of the Work as defined in Sections 7.1 to 7.7 of this Agreement and the term "fee" shall mean the CMAR's Fee as defined in Section 6.1 of this Agreement.

ARTICLE 7. COST OF THE WORK FOR THE CONSTRUCTION PHASE.

§ 7.1 The term Cost of the Work shall mean costs necessarily incurred by CMAR in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.5 and shall never include the CMAR's Fee.

§ 7.1.1 Where any cost is subject to the Owner's prior approval, CMAR must obtain this approval prior to incurring the cost.

§ 7.2 Labor Costs

§ 7.2.1 Only those wages of construction workers directly employed by CMAR to perform the construction of the Work at the Site that are not otherwise included in Exhibit F.

§ 7.3 Subcontract Costs

Payments made by the CMAR to Subcontractors in accordance with the requirements of the subcontracts.

§7.4 Construction General Conditions/General Requirements

§7.4.1 Those Costs specifically provided in Exhibit F. Notwithstanding anything to the contrary, Exhibit F shall control over any conflicting provision of Article 7 of this Agreement.

§ 7.5 Miscellaneous Costs
§ 7.5.1 Premiums for that portion of insurance and bonds required by the Contract Documents that are directly attributed to this Agreement that are not included in Exhibit F. Notwithstanding the foregoing, bond premiums shall be (.40%) of the penal sum of the bond. Insurance premiums shall be (0.15%) for CMAR coverages reflected in Exhibit H.

7.6 Costs Not To Be Reimbursed
§ 7.6.1 The Cost of the Work shall not include any costs other than specifically provided in 7.2-7.5 of this Agreement.

§ 7.7 Discounts, Rebates and Refunds
§ 7.7.1 Cash discounts obtained on payments made by the CMAR shall accrue to the Owner if (1) before making the payment, the CMAR included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the CMAR with which to make payments; otherwise, cash discounts shall accrue to the CMAR. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the CMAR shall make provisions so that they can be obtained.

§ 7.7.2 Amounts that accrue to the Owner in accordance with the provisions of Section 7.7.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.8 Related Party Transactions
§ 7.8.1 The term "related party" as used in this Agreement, shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with CMAR; any entity in which any stockholder in, or management employee of, the CMAR owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the CMAR.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the CMAR and a related party, the CMAR shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the CMAR shall procure the Work, equipment, goods or service from the related party as a Subcontractor. If the Owner fails to authorize the transaction, the CMAR shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of this Agreement.

§ 7.9 Accounting Records
CMAR shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the CMAR's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. CMAR shall preserve these records for such period as may be required by Law and Regulations, including without limitation, any Laws and Regulations regarding public records requests as may be necessary to effectuate any assignment of this Agreement to the

West Villages Improvement District, or such other agency, or the transfer of the SWWWRF to the City of North Port.

§ 7.9.1 Records to be available for Owner's audit shall include but not be limited to accounting records, written policies and procedures, contract and subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence invoices; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other supporting evidence deemed necessary to substantiate charges. These records shall be open to inspection and subject to audit and/or reproduction to the extent necessary to adequately permit evaluation and verification of the Cost of the Work, and any invoices, change orders, payments or claims submitted by the CMAR or vendor to any of his payees pursuant to the execution of the Agreement. This material shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations).

§ 7.9.2 If an audit or examination of the CMAR's records discloses overcharges (of any nature) by the CMAR then, at the Owner's option, either the CMAR shall immediately reimburse the Owner for such overcharge or the Owner may deduct the amount of such overcharges from amounts otherwise owed by the Owner to the CMAR.

ARTICLE 8. PAYMENT PROCEDURES.

§ 8.1 Pre-Assignment Progress Payments
§ 8.1.1 Prior to any assignment to a governmental entity provided in Section 11.2 of this Agreement, and based on Application for Payment submitted to the Engineer, the Owner shall make progress payments on account of the Contract Price to the CMAR as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 8.1.1.1 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - Exhibit E - from CMAR and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment.

§ 8.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 8.1.3 With each Application for Payment, CMAR shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Engineer to demonstrate that cash disbursements already made by CMAR on account of the Cost of the Work equal or exceed progress payments already received by the CMAR, less that portion of those payments attributable to the CMAR's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 8.1.4 Each Application for Payment shall be based on the most recent Schedule of Values submitted by the CMAR in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the CMAR's Fee shall be shown as a single separate item. The Schedule of Values shall be prepared in such form and

supported by such data to substantiate its accuracy as the Engineer may require. This schedule, unless objected to by the Engineer, shall be used as a basis for reviewing the CMAR's Applications for Payment.

§ 8.1.5 Applications for Payment shall show the percentage of actual completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 8.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the GMP allocated to that portion of the Work in the Schedule of Values;
.2 Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;
.3 Add the CMAR's Fee, less retainage of ten percent (10%). The CMAR's Fee shall be computed upon the Cost of the Work at the rate stated in Section 6.1 or, if the CMAR's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
.4 Subtract retainage of ten percent (10%) from that portion of the Work that the CMAR self-performs;
.5 Subtract the aggregate of previous payments made by the Owner;
.6 Subtract the shortfall, if any, indicated by the CMAR in the documentation required by Section 8.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
.7 Subtract amounts, if any, for which the Engineer has withheld or nullified.

§ 8.1.7 CMAR shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 8.2 Post-Assignment Progress Payments
Prior to the effective date of the assignment of the Agreement pursuant to section 11.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding any other provisions of the Agreement and General Conditions, upon assigning this Agreement to the WVID or other agency pursuant to Section 11.2 herein, CMAR shall provide its Application for Payment to the WVID, which shall be delivered or mailed to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as Exhibit K. The Application for Payment shall include such supporting information as the WVID may reasonably require the CMAR to provide.

§ 8.3 Final Payment
§ 8.3.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the CMAR when:

.1 final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;
.2 CMAR furnishes a final accounting of the Cost of the Work and evidence satisfactory to Owner that there are no obligations, Claims or Liens for labor, taxes, contributions or other items in connection with the Work;
.3 CMAR and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as Exhibit G, unless the lien is attributable to the Owner;
.4 CMAR having delivered to Owner all as-built drawings showing the location of all improvements constructed on the Site required by Owner, West Villages Improvement District and City of North Port;
.5 CMAR having delivered to Owner a complete list of Subcontractors and Suppliers for the Work, including addresses and telephone numbers, sworn to by CMAR;
.6 CMAR having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;
.7 CMAR having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;
.8 CMAR having delivered to Owner consents of surety; and
.9 CMAR having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 8.3.2 Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 15.06 of the General Conditions. If CMAR fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner, Owner, in addition to all other rights and remedies available to it, will have the right to retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due CMAR. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due CMAR from Owner, or (ii) issue a written notice to CMAR reducing the Contract Price by an amount equal to that which Owner is entitled. If CMAR disputes any owner withholding under this section, CMAR shall have the right to pursue the dispute resolution provisions in Article 13.

ARTICLE 9. INSURANCE and BONDS.

§ 9.1 Insurance.
§ 9.1.1 For all phases of the Project, CMAR shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 9.1.1.1 CMAR shall, for the protection and benefit of the indemnitees, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of CMAR's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on Exhibit H, attached hereto and incorporated herein by reference. CMAR shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and

insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the additional requirements under this Article 9 and the Contract Documents.

§ 9.1.1.2 All deductibles under any insurance shall be paid by CMAR.

§ 9.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by CMAR pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to CMAR's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 9.1.2 The insurance required by this Section shall be endorsed by CMAR's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to CMAR's insurance: "The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 9.1.3 Additional Insureds.
The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to CMAR's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of CMAR's and its Subcontractor's Work, during the CMAR's and/or Subcontractor's operations and following the CMAR's and/or Subcontractor's completed operations. CMAR shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

§ 9.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit H shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 9.1.5 Waiver of Subrogation.
CMAR and all Subcontractors shall waive their rights of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by CMAR and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 9.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit CMAR's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 9.1.7 Indemnification.
CMAR, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage to the extent caused by the negligent acts or omissions of CMAR, and other persons employed or utilized by CMAR in the performance of this Agreement or the services performed hereunder. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 9.1.8 Limitation on Governmental Liability.
Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

§ 9.1.9 Any aggregate limit under CMAR's liability insurance shall, by endorsement, apply to the Project separately.

9.2 Performance Bond And Payment Bond; No Lien Rights.
§ 9.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05, Florida Statutes, CMAR shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Project GMP and shall be in effect for a full year from the time of final completion of the Project. CMAR acknowledges that this Agreement may be assigned to the WVID and that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. CMAR shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond. Prior to the assignment of this Agreement from Owner to WVID, CMAR shall have all available lien rights.

§ 9.2.1.1 Owner will pay to CMAR as a Cost of the Work a rate of four tenths percent (.40%) of the penal sum of the bond. The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 9.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement, and

§ 9.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by CMAR under the Agreement; and

§ 9.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the CMAR under the Contract Documents; and

§9.2.1.5 That the CMAR's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 9.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 10. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and CMAR concerning the Work consist of the following:

§ 10.1 This Agreement.

§ 10.2 Exhibits to this Agreement:

A	PRECONSTRUCTION SCOPE OF SERVICES, dated September 13, 2017, 4 pages
B	CMAR Preconstruction Scope of Services and Indirect GMP Costs with Garney Policy Coverage Limits, 2 pages; West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP dated, September 27, 2017, 2 pages, and modified on November 17, 2017, 1 page; Estimate for West Villages –General Conditions, 2 pages
C	INDIRECT GMP ITEMS, Southwest Wastewater Reclamation Facility (Project)", dated February 13, 2018, 3 pages
D1	GMP1 (including exhibits D1-1 through D1-5)
D2	GMP2 Amendment (exemplar)(including exhibits (D2-1))
E	Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages
F	Form – Notice to Proceed, 1 page
G	Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages
H	Insurance Requirements
I	WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested
J	Request for Qualifications for Construction Manager at Risk (CMAR) Services For The Southwest Water Reclamation Facility (WRF), 15 pages
K	Resolution 2016-22, West Villages Improvement District
L	Resolution 2017-02, West Villages Improvement District
M	Resolution 2016-21, West Villages Improvement District
N	Form of Assignment and Assumption of Contract, with exhibits N-1 through N-3
O	Addendum to Agreement Upon Assignment, with exhibits O-1 through O-4
P	List of Permits Required for the Work Pursuant to 2.1.6.2

§ 10.3 The documents listed in this Article 10 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 10. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits K, L, M, N, O and D, the General Conditions, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 11. MISCELLANEOUS.

§ 11.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§11.2 Except as provided herein, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of CMAR, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. CMAR and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in Exhibit N (as Exhibit N-3), the Addendum to Agreement Upon Assignment attached and included in Exhibit O, and such other consents reasonably required to facilitate such assignment.

§ 11.3 CMAR binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 11.4 CMAR shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 11.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 11.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 11.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 11.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 11.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 11.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 11.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 11.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. CMAR understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, CMAR agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, Florida Statutes. CMAR acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the CMAR shall 1) keep and maintain public records required by the WVID to perform the service; 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the CMAR does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in CMAR's possession or, alternatively, keep, maintain and meet all applicable

requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the CMAR, the CMAR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CMAR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CMAR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 11.14 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at: Paul J. Erhardt, President
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamycorp.com

with copy to: Leslie C. Candes, Esq.
4901 Vineland Road
Suite 450
Orlando, Florida 32811
Email: leslie.candes@mattamyhomes.com

If to CMAR, at: Timothy M. Behler, Chief Operating Officer
370 E. Crown Point Road
Winter Garden, FL 34787
(407) 877-5903 – office
(321) 229-7221- mobile
tbehler@garney.com

If to Engineer, at: Ashley M. Miele, P.E.
1777 Main Street, Suite 200
Sarasota, Florida 34236
Ashley M. Miele, P.E.
Email: Ashley.Miele@kimley-horn.com

§ 11.15 Consequential Damages

§ 11.15.1 Except as set forth in Section 11.15.2 below, none of the CMAR, the Owner, the WVID (upon an effective assignment), the engineer, nor their respective, officers, employees, and representatives, shall be liable for indirect, incidental, special or consequential damages.

§ 11.15.2 The consequential damages waiver set forth in Section 11.15.1 shall not impact the parties' rights or obligations under the Agreement regarding the payment of liquidated damages or any early completion bonus.

ARTICLE 12. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the CMAR as provided in Article 16 of the General Conditions.

ARTICLE 13. DISPUTE RESOLUTION

§ 13.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, Florida Statutes and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 13.2. Governing Law, Venue And Jurisdiction The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: COO - Eastern Plant Operations
Date: March 9, 2018
State License No. CGC1515632
Expiration Date: 8-31-2018

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Name: Paul Erhardt
Title: Vice President
Date: March 9, 2018

EXHIBIT A
PRECONSTRUCTION SCOPE OF SERVICES

EXHIBIT A

PRECONSTRUCTION SCOPE OF SERVICES

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

September 13, 2017

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's preconstruction responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and Guaranteed Maximum Price (GMP) preparation. These services are separated into various tasks necessary to complete the overall scope of services.

Task #1 – 60% Design Task

a. Project Review Meeting: Participate in a team meeting to review the status of the site layout, design, and Owner's desired outcome of the project. One week prior to the meeting, the Owner will provide the latest set of design documents for review.

b. Construction Management Plan (CMP): CMAR will review existing facility drawings, as well as, visit the City of North Port WRF and the proposed SWWWRF site to evaluate existing conditions. The CMAR will assist with obtaining required permits, identification of long lead time equipment, and identification of partial GMP phases that can be initiated early.

c. Project Schedule: CMAR will prepare a detailed schedule to reflect all the activities necessary to complete the design of the project. The schedule will include permitting, all major material purchases, submittal activities, and address the final completion date.

d. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 60% design. CMAR will provide a report with observations, value engineering opportunities, owner direct purchase options, and recommendations. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings, evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

e. Cost Estimate: CMAR will prepare a construction budget estimate based on the design documents provided. Estimates will be reflect present market conditions and future market expectations at the time of construction for labor, material, etc. CMAR will prepare a cash flow projection for budgeting the finance needs for the project.

f. GMP: CMAR will develop an early GMP that will include the early solicitation and purchase of key equipment, materials, and construction activities needed to meet the project completion date.

   1. CMAR will select the long lead items that could impact the Project schedule. For those items identified, CMAR will develop a detailed scope of supply, solicit vendors for pricing and delivery lead times, review proposals, and provide a detailed analysis for selection. The CMAR will negotiate the terms / conditions, final price, and delivery deadlines, along with preparing a detailed purchase order.

   2. CMAR will prepare detailed bid packages for early completion activities, solicit and pre-qualify companies to submit proposals, hold prebid meetings and site visits, and review proposals.

   3. CMAR will prepare GMP #1 that includes the cost of the long lead time equipment / materials, early bid package items, CMAR contingency, general conditions, bonds, insurance, and CMAR fee for District's review and approval by the Owner.

Task #2 – 90% Design Task

a. Project Schedule: CMAR will update the schedule to reflect the 90% design documents, along with incorporating all progress made to date. The status and progress of the long lead item procurement items and GMP #1 packages will be incorporated and updated in the schedule.

b. Design Review: CMAR will perform a detailed value engineering, constructability, and biddability review of the 90% design. A report with observations, value engineering opportunities, and recommendations will be provided. The report will include a list of value engineering opportunities and an estimate of the potential savings for each opportunity. The CMAR will participate in meetings to discuss the design review findings, evaluate proposed design modifications, and identify actions items. The CMAR will prepare meeting minutes that will be distributed to all attendees summarizing the meeting discussions, listing decisions made during the meeting, and listing action items with responsible parties resulting from the meeting.

c. Cost Estimates: CMAR will provide updated detailed cost estimates based on the 90% design. Detailed supporting documentation will be provided and presented in an "open book" format for the Owner to review. An updated cash flow projection will be provided for budgeting the finance needs for the project.

Task #3 – GMP Development

a. Bid Package Development: Based on the 90% design, CMAR will prepare bid packages for the various components of the project. The bid packages will include equipment procurement, sub-contractor bid packages, and self-perform bid packages.

b. Project Bidding: CMAR will solicit, prequalify, and issue bid packages to prospective bidders. CMAR will hold a prebid meeting and site tour in explain the project details, expectations, and familiarize each bidder with the existing site conditions.

c. Guaranteed Maximum Price (GMP): CMAR will review and evaluate each bid received for completeness and adherence to the project requirements. CMAR will prepare a GMP based these bids received, along with the CMAR contingency, bonds, insurance, general conditions, and CMAR fee for review and approval by the Owner.

d. Scheduling: CMAR will finalize a detailed schedule based on the input from proposed bidders. The schedule will be resource loaded to reflect the GMP. A final cash flow projection will be provided to match the GMP.

Permitting Services Included

The CMAR will apply for and obtain the following permits:

- FDEP NPDES SWPP Permit. The Engineer will provide the stormwater pollution prevention plan. The CMAR will apply for and obtain the permit.
- City North Port Building Department Permit. The Engineer will provide necessary information required for the City of North Port Building Permit application. The CMAR will apply for and obtain the permit.
- FDEP Dewatering Permit. The contractor will apply for and obtain the FDEP Dewatering Permit.

Deliverables (CMAR)

CMAR will provide Owner with the following deliverables:

- Design review report
- Value Engineering report with anticipated savings
- Detailed cost estimates
- Detailed resource loaded schedule
- Schedule of values
- Project cash flow projection
- Subcontractor & supplier bid packages
- Guaranteed Maximum Price (GMP) for construction of the project

Period of Service

This scope of services are based on the being completed over a 4 month period from September 2017 through January 2018, commencing upon the execution of the contract.

EXHIBIT B

CMAR SCOPE OF SERVICES

Preconstruction Scope of Services

$135,000 Cost for the prescribed Preconstruction Scope of Services and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP.

Costs for geotechnical investigations required for design are by others.

Indirect GMP Items (Construction General Conditions)

$1,500,000 Cost of the prescribed Indirect GMP Items excluding permits.
- $1,425,000 – Lump Sum
- $75,000 – Allowance items as stated below

$1,500,000 CMAR Fee will be fixed $1.5M lump sum and 6% on any cost over $25M total GMP

0.40% CMAR Bond Rate

0.15% CMAR Insurance

Price does not include trailer for design engineer use.

Price includes a Florida professional land surveyor for initial survey and establishing initial control that Garney will use for layout during construction. Price includes $15,000 allowance for a Florida professional land surveyor to aid in completion of the certified as-builts.

Costs for geotechnical investigations required for design are by others.

The costs for the following items can be adjusted once the scope is clarified by receipt of project plans and specifications:

- We have included $50,000 as a construction testing allowance; however, suggest testing be included within the various bid packages.
- This price includes a $10,000 allowance for maintenance of traffic.
- Per item "O" in Exhibit C of the Indirect GMP Items Scope of Services, the cost of construction permits will be included as a separate allowance. The amount will be determined in conjunction with the Owner.

Insurance costs are based upon Garney's standard coverage, limits and deductibles provided within the table below. We have not included any project-specific coverage (owner's protective policy, pollution and professional liability, builder's risk, etc.) because the insurance requirements mentioned in Item #4 were not provided. Due to the impact of Hurricane Irma on the insurance market and not having been provided the desired limits, deductibles, and perils for this project, we are unable to speculate on what these costs might be.

Pricing does not include a dedicated QA/QC engineer or Safety professional.

The indirect costs are based on substantially completing work 640 calendar days from the date of Notice to Proceed. Each additional month beyond then will be an extra $65,225 plus CMAR markups.

STANDARD GARNEY POLICY COVERAGES/LIMITS

Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products-Completed Operations Aggregate	$2,000,000
	Personal Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

Garney CONSTRUCTION

375 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

September 27, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for $135,000. If Garney's services are utilized for the Construction Phase, this amount will be reduced to $90,000 and that amount will be included in the total GMP and subject to the CMAR Fee calculation.

Garney has included two weeks of a project engineer to assist with permitting requirements and have assumed that all permit costs will be paid as an allowance in the GMP. Additionally, we assumed costs for geotechnical investigations required for design are by others. Garney's insurance limits are attached.

Preconstruction Scope of Services

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

We look forward to working with you and the rest of the Kimley-Horn and West Villages Construction team to successful deliver this project. If you have any questions, please advise.

In agreement to the understanding stated above, both parties will begin working in good faith to complete the preconstruction services while final contracts are executed in the near future.

GARNEY COMPANIES, INC.

(Signature and Date) 10/2/2017

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

(Signature and Date) 10/2/17

Paul J. Erhardt
Vice President

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits
Worker's Compensation		Statutory
Employer's Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal/Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$15,000,000
	General Aggregate	$15,000,000
	Products/Completed Operations Aggregate	$15,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

10/2/17

Garney CONSTRUCTION

370 East Crown Point Road, Winter Garden, FL 34787
Phone: 407.877.5903
Fax: 407.877.5912
www.garney.com

November 17, 2017

West Villages Construction, LLLP.
Attn: Paul J. Erhardt
19503 S. West Villages Parkway. #14
Venice, FL 34293

Re: West Villages WRF – CMAR Preconstruction Scope of Services for West Villages Construction, LLLP

Dear Mr. Erhardt,

Garney will provide the Preconstruction Services per the prescribed Preconstruction Scope of Services in accordance with the detailed scope prepared by Kimley-Horn dated September 13, 2017 for the above referenced project for the lump sum of $135,000, payable 50% on December 1, 2017 and the remaining after Garney submits the GMP. Based upon our agreement the cost for preconstruction services will not be reduced as Garney's General Conditions, originally submitted as $1,300,000 will be reduced to $1,240,000.00. All other provisions of the original September 27, 2017 letter remain in force.

GARNEY COMPANIES, INC.

(Signature and Date)

Timothy M. Behler
Chief Operating Officer

West Villages Construction, LLLP

(Signature and Date)

Paul J. Erhardt
Vice President

Estimate for West Villages - General Conditions
General Conditions
Prepared by: ECM
Added's Noted:
Filtered Totals

Comments (Type/Phase)	Description	Quantity	Unit	Total Unit	Total MH	Total MH/U	Labor Unit	Labor Total	Materials Unit	Materials Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
	Garney Indirects																
	Project Manager	18.0	Mos	3144.0	672.000	38,396.63	167,199		0		0		0		0		167,199
	Senior / General Superintendent	18.0	Mos	3144.0	672.000	9,364.80	172,368		0		0		0		0		172,368
	Clerk / Admin Secretary	18.0	Mos	1764.0	378.000	9,827.50	54,893		0		0		0		0		54,893
	Project Engineer - Site	18.0	Mos	3144.0	672.000	5,323.05	95,815		0		0		0		0		95,815
	Project Engineer - Office	8.0	Mos	1260.0	270.000	5,315.05	42,520		0		0		0		0		42,520
	Business Development & Procurement	0.0	LS	0.0		0	0		0		0		0		0		0
	Vehicle Allowances														FUEL	ALLOWANCE	
	Project Manager	18.0	Mos				0		0		0		450	8,100	1,098	19,764	27,864
	Project Engineer - Field Engineer	36.0	Mos				0		0		0		650	11,700		0	11,700
	Senior / General Superintendent	18.0	Mos				0		0		0		809	10,908	1,870	18,708	29,616
	Setup																
	Garney's Office	18.0	Mos	0.0	0.000	0.00	0		0		0		1,000	18,000		0	18,000
	Setup Garney Office	1.0	Ls	231.0	125.000	2,321.64	2,322	0.00	0	0.00	0		-	0	-	0	2,322
	Office Supplies	18.0	Mos				0		0		0			0	300	5,400	5,400
	Computer Equipment	1.0	Ls				0		0		0			0	1,300	1,300	1,300
	Network Setup	1.0	Ls				0		0		0			0	1,000	1,000	1,000
	Copiers/Fax Machines	18.0	Mo				0		0		0		500.00	9,000	366	6,588	15,588
	Postage	18.0	Mo				0		0		0			0	95	1,710	1,710
	Reproduction Services	18.0	Mo				0		0		0			0	50	900	900
	Garney Phone/T1/Internet service	18.0	Mos				0		0		0			0	500	9,000	9,000
	Sanitary Facility	18.0	Mos				0		0		0			0	250	4,500	4,500
	Temp Power Utilities	18.0	Mos				0		0		0			0	500	9,000	9,000
Backup	Temp Power Utilities	1.0	Ls				0		0		0			0	1,000	1,000	1,000
	Existing Water	18.0	Mos				0		0		0			0	154	2,700	2,700
	Temporary Water to Trailers	1.0	Ls	40.0	20.000	698.53	941		0		0			0	1,500	1,500	2,341
	Phones	18.0	Mos				0		0		0			0	150	2,700	2,700
	Video Survey	1.0	Ls	0.0		0.00	0		0		0			0	500	500	500
	Project sign	1.0	Ea	16.0	16.000	316.22	316		0		0			0	1,000	1,000	1,316
	Spill Containment Facility	1.0	Ls	0.0		0.00	0		0		0			0	2,500	2,500	2,500
	Drug Tests	0.1	Ea				0		0		0			0	95	300	300
	Trash Haul	18.0	Mos				0		0		0			0	800	14,400	14,400
Item "J"	Project Layout	1.0	Ls	0.0		0.00	0		0		10,000.00	10,000		0		0	10,000
Item "K"	Construction Testing	1.0	Ls	0.0		0.00	0		0		50,000.00	50,000		0		0	50,000
	"Special Inspections"	1.0	Ls	0.0		0.00	0		0		0			0		0	0
Item "L"	As Built Drawings	1.0	Ls	0.0		0.00	0		0		15,000.00	15,000		0		0	15,000
Item "M"	Traffics Maintenance	1.0	Ls	0.0		0.00	0		0		0			0	10,000	10,000	10,000

GC

Page 1 of 2

EXHIBIT C
INDIRECT GMP ITEMS

Estimate for West Villages - General Conditions
General Conditions
Prepared by: LCW
Addenda Noted:
Silkwood Totals

Classification (Spec Divn)	Description	Quantity	Unit	Total MH	MH/CU	Labor Unit	Labor Total	Materials Unit	Materials Total	Subcontract Unit	Subcontract Total	Equipment Unit	Equipment Total	Other Unit	Other Total	Total Cost
Item "A"	Start-up and O&M Manuals	1.0	LS	0.0		0.00	0		0		0		0		0	0
Item "B"	Permits (Garney to Pay For)	1.0	LS	0.0		0.00	0		0		0		0	w/ GMP		0
	Labor Burden	1.0	LS	0.0		0.00	0		0		0		0	439,162	439,162	439,162
	BID TOTALS:			MH'S			Labor		Materials		Subcontract		Equipment		Other	TOTAL
				14,016			$97,991		$		77,000		67,000		$81,379	2,240,000
	Monthly GC's (allowance and fixed costs not included)															$ 80,233

4843-5410-2865.14

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EXHIBIT C

INDIRECT GMP ITEMS

Southwest Wastewater Reclamation Facility (Project)

Prepared for:
West Villages Construction, LLLP (Owner)

Prepared by:
Kimley-Horn and Associates, Inc. (Engineer)

February 13, 2018

General

The Owner will be constructing the West Villages Southwest Wastewater Reclamation Facility (SWWWRF) with an initial capacity of 2.0 MGD and future buildout capacity of 6.0 MGD using the Construction Manager at Risk (CMAR) delivery method for performing the work. The CMAR will work in partnership with the Owner and Kimley-Horn (engineer) to complete the Project design, construction, and start-up (Substantial Completion) no later than 640 calendar days from the date of Notice to Proceed, at which time ownership and operations of the fully functional facility will be turned over to the City of North Port.

CMAR's Scope of Services

This scope of services describes the CMAR's indirect guaranteed maximum price (GMP) responsibilities which generally includes attendance and participation in progress meetings, design reviews, value engineering and constructability input, scheduling, bidding, and GMP preparation. Specific services will include but are not limited to the following tasks.

Item #1 – General Conditions

a. Project Personnel: The CMAR shall provide qualified personnel for all positions, on-site and home office, full time and part-time, as necessary to manage the project site, including subcontractors and vendors, and administer the project to complete the construction project. At a minimum, the CMAR will provide a Project Manager, Project Superintendent, and a Project Engineer. These personnel shall be located on-site in the CMAR's field office full time for managing, coordinating, and directing all construction, administrative, and field activities. In addition, the CMAR shall provide personnel to assist with procurement, submittal reviews, cost estimating, scheduling, safety, quality control, clerical, and any other duties necessary to ensure all activities are performed in a timely and satisfactory manner. The CMAR shall include all labor burden, other payroll charges, travel costs, per diem charges, and all other costs necessary to support project personnel.

b. Temporary Facilities: The CMAR shall provide jobsite/field offices for on-site CMAR personnel to include all furniture, equipment, electric, HVAC, water service, sewer service, computer equipment, copiers, printers, internet service, office supplies and paper products, postage, shipping, document reproduction, lighting, telephone / internet service, and other appurtenances necessary to manage

and administer the Project.

c. Temporary Utilities: The CMAR shall provide installation, set-up, cleaning, and removal for all temporary facilities needed for the project. The temporary utilities shall include temporary electric, toilet facilities, potable water, monthly costs of all services and utilities, supplies and chemicals, and temporary electric service.

d. Site Security: The CMAR shall provide all site security to include personnel, temporary fencing, structures, and related facilities necessary to protect the construction site from damage and theft, including non-construction hours.

e. Safety: To include safety meetings, supervision, equipment, and devices necessary to provide a safe environment for all on-site personnel including Owner's personnel.

f. Housekeeping: To include labor, dumpsters, and all necessary appurtenances to provide clean-up throughout the duration of the project and clean-up at the end of the project.

g. Construction Material Waste Disposal: To include the timely removal and disposal of all construction debris.

h. Construction Photographs: To include monthly aerial photographs and construction progress photographs to effectively document the work in progress.

i. Project signs: Provide one (1) project sign 4' x 8'.

j. Project Layout: Provide survey services to establish benchmarks and control points necessary to layout and construct the project improvements.

k. Construction Testing: The CMAR shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents. The testing results shall be provided directly to the Owner's representative and Engineer throughout the Project. The CMAR shall be responsible for the costs of any retesting of failing components as identified by the independent testing laboratory. Material sampling and testing shall be in accordance with ASTM standards and the FDOT Standard Specifications for Road and Bridge Construction, latest edition, unless otherwise noted.

l. As-built Drawings: The CMAR shall provide surveyed as-built record drawings, prepared and certified by a professional land surveyor, documenting the horizontal and vertical location of all site improvements including paving, grading, drainage, underground utility construction, tank and weir elevations, top of well casing, and any other Project information to completely and accurately document the as-constructed condition of the Project. The as-built drawings shall include weekly submission of construction plan redline markups to the Engineer documenting actual construction progress.

m. Traffic Maintenance: The CMAR shall be responsible, during the course of construction, for proper maintenance control and detour of traffic in the area of construction. Traffic control and

Maintenance shall be in conformance with the Manual of Traffic Control and the FDOT Standard Index (600 Series). The Public shall, at all times, be protected by barricades, flashers, flagmen, and other safety devices as needed. All safety precautions shall be taken and all traffic controls shall be furnished, satisfactory to City, County, Department of Transportation, and/or any other governmental agency having jurisdiction, where partial or complete obstruction of streets is required for the performance of the work.

n. Start-up and O&M Manuals: To include all services necessary to coordinate with vendors and contractors to start-up and place equipment into service, including provision of training to Owner's personnel and video taping of training events. Also to include hard copies and electronic copy of all necessary O&M manuals for all equipment installed, started-up, modified and/or provided.

o. Permits: CMAR shall obtain and pay for all construction permits, licenses, inspection fees, and governmental charges necessary for the prosecution of the Work. All permitting fees and other permitting costs paid for by the CMAR will be included as an allowance in the GMP.

Item #2 – CMAR's Fee

The CMAR shall provide the percentage (%) fee that will be used to determine the CMAR's fee based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #3 – Bonds

The CMAR shall provide the percentage (%) to provide performance and payment bonds as required by the contract agreement. The % cost will be used to determine the bond cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Item #4 – Insurance

The CMAR shall provide the percentage (%) to provide insurance as listed on the attached insurance form. The % cost will be used to determine the insurance cost based on a calculation against the overall project cost (Total GMP including all indirect cost).

Period of Service

This scope of services is based on the Project being completed over a period from March 2018 through December 2019, with construction commencing upon the execution of the notice to proceed.

Garney CONSTRUCTION
ADVANCING WATER

WEST VILLAGES
SWWWRF

DATE 2 28 2018
PRINTED 9 29 AM

PROJECT NAME: WEST VILLAGES WRF 90% DESIGN BUDGET

GMP-1 WORK		
G1-010	Sitework and Site Utilities	1,370,000
	Contingency for Site Work	50,000
	Temporary Water Service	22,000
G1-020	Deep Injection and Monitoring Wells Incl. Bond	NOT IN CONTRACT
G1-030	Prestressed Tanks	1,670,205
G1-040	Furnish Electrical Gear	1,062,807
G1-050	Furnish Generator	658,310
G1-060	Furnish Process Equipment	4,201,210
G1-070	Filters, Chlorine Contact, and Effluent Pump Station	4,031,113
	Owners Direct Purchase (ODP)	-338,861
	Watermain connection at US41	19,580
	Allowance for Forcemain connection at US41	135,000
	Maintenance of Traffic Allowance	10,000
	As-Built Survey Allowance	15,000
	Construction Testing Allowance	50,000
	Building Permit & Utility Inspection Fee	100,000
	Allowance: Assist Contract with Well Driller	100,000
	CMAR GCs	260,000
INDIRECT COSTS GMP-1		
0.15%	CMAR Insurance	21,458
0.40%	Payment & Performance Bond	57,220
6%	Construction Fee 6%	809,703
GMP-1 TOTAL		14,304,745

Cover Letter

As described by its Preconstruction Services Agreement with West Villages, Garney Construction (Garney), has requested subcontractor bids and compiled an estimate for all work associated with the first phase of work for the Southwest Water Reclamation Facility. Accordingly, Garney offers the following Guaranteed Maximum Price (GMP-1) for the first phase of work described by the bid documents, and otherwise described by the Agreement.

For the Guaranteed Maximum Price of $14,304,745

Garney has included an Owner's contingency for GMP-1 in the amount of $460,000.00, which includes allowances for the items listed below.

a. Forcemain Connection @ US41: $135,000
b. Sitework: $ 50,000
c. Traffic Maintenance: $ 10,000
d. As-Built Survey: $ 15,000
e. Construction Testing: $ 50,000
f. Permit & Inspection Fees: $100,000
g. Assist Contract with Well Driller $100,000

GMP-1 includes cost for performance and payment bonds, insurance, general conditions, construction administration costs, and construction management fee. Builders Risk Insurance is excluded and agreed to be the responsibility of West Villages per the Agreement.

Garney will serve as the CMAR, furnishing construction administration and management services and will use the CMAR efforts to perform the Work in accordance with the Contract Documents.

The Work is generally described as Sitework, Site Utilities, Prestressed Tanks, furnish Electrical Gear, furnish Generator, furnish Process Equipment, and installation of the Filters, Chlorine Contact Chamber, and Effluent Pump Station. A more detailed summary of work is described in Section 1.

This proposal is based on a Notice to Proceed date of March 1st, 2018.

Should you have any question, comment, or wish to discuss any of the above in greater detail, please feel free to contact us immediately.

Section 1: GMP #1

Reference the attached GMP #1 summary table for costs associated with each scope item.

SCOPE NARRATIVES

G1-010: Sitework and Site Utilities

a. Clear and grub project site within limits of construction.
b. All surveying required for GMP-1 scope of work.
c. Furnish and install erosion control devices in accordance with the Contract Drawings. Work includes silt fence, temporary construction entrance, inlet protection, sod around ponds, and sod at perimeter slopes.
d. Maintain erosion control devices and provide dust control as needed.
e. Excavate and grade ponds. Pond B-01 will be enlarged as necessary to provide additional fill material to build-up the project site.
f. Backfill and compact project site from existing grade to approximate final grade using only material excavated from ponds or from structure excavations.
g. Prepare subgrade at Reject Storage Tank including slab stone and access road around tank.
h. Backfill Reject Storage Tank to final grade.
i. Install temporary access roads and site staging area.
j. Furnish and install 12" DR25 PVC force main from the south side of US 41 to the first vertical bend upstream of the influent flow meter.
k. Furnish and install 8" DR18 PVC water main, fire hydrants, and 1" tap for service to the Control Building.
l. Furnish and install 8" DR14 PVC fire main and backflow assembly with FDC.
m. Furnish and install sanitary sewer system. Work includes all sanitary sewer manholes, installation of the Site Lift Station manhole, and all sewer piping to within ten feet of buildings.
n. Furnish and install storm drain system complete including all inlets, outlets, bubblers, culverts, and control structures. RCP pipe shall be Class III and HDPE pipe shall be ADS-N12.
o. WORK TO BE INCLUDED IN GMP2: asphalt paving, site concrete, landscaping, irrigation, littoral shelf, final grading, final sodding, site restoration, pond fountains, security fence, force main and water main tie-ins at US41, all yard pipe not noted herein
p. GMP-1 includes a $50,000 allowance for unforeseen conditions and future design improvements associated with the sitework. The allowance is intended to cover the following:
    - Rock Excavation
    - Undercut & Replace Unsuitable Soils
    - Additional Clearing to enlarge Bond B-01
    - Additional Silt Fence to enlarge Pond B-01
    - Additional Sodding to enlarge Pond B-01
    - Modify 12" Influent Force Main for future Connection

Section 3: Clarifications & Assumptions

The following clarifications and assumptions were used to develop the estimate for GMP-1.

General Items

1. GMP-1 material and subcontractor pricing is based on proposals from vendors and subcontractors. Material pricing is based on industry standard materials unless specifications were provided.
2. Sales tax has been included on all materials including Owner Direct Purchase. The tax savings for the ODP scope is provided as a deduct.
3. Electrical Permit Fees are Excluded (Carried with Building Permit)
4. Power Utility Development Charges for Permanent & Temporary Power are not included with GMP 1. The Electrical Engineer has recommended an allowance of $75,000 be set aside for this scope.
5. Generator Rental and Fueling for Temporary Power requirements prior to Line build out are NOT included.
6. Price does not include the Wrap-Up GL Policy
7. Wage rate calculations are included at the end of Section 6.

G1-010 – Sitework & Utilities

1. Assumed no rock excavation will be required.
2. Assumed 12" of under slab stone subgrade prep at all structures.
3. The entire influent force main is 12" diameter.
4. The 12" force main and 8" water main will be restrained per the Restrained Joint Tables for PVC shown on drawing C-23.
5. The storm drain system will be modified per drawings sent to Kimley-Horn on 1/26/18.
6. Elevations for the Site Lift Station shown on drawing M-17.1 will be as follows: T = -2.0', Y = 8.0', Z = 0.0'
7. IET liner system is included with the Site Lift Station and first manhole upstream of the lift station. No other special coatings for manholes are included.
8. No specifications were provided for Division 02. All sitework is assumed to be per the contract drawings, industry standards, and the draft geotechnical report dated 12/26/17.
9. Assumed using all onsite material for topsoil and structural backfill. No import fill costs are included. All fill material for the project site will be excavated from structures and ponds B-01, B-02, and B-03.
10. Pond B-01 will be enlarged to the south as necessary to provide additional fill. The enlarged pond will not affect any permits, easements, or adjacent properties. Additional clearing, silt fence, and sodding required for the larger pond will be paid for out of the Sitework Contingency.

G1-020 – Injection & Monitoring Wells

1. This scope is not in our Contract.

G1-030 – Prestressed Tanks

1. See analysis sheets in Section 5 for scope clarifications.

G1-040 – Furnish Gear Package

1. Schneider (Square D) gear package is the low-priced supplier for this project. Garney is waiting on final updates from Rexel which is providing quotations on the Cutler Hammer and Allen Bradley changes. Both proposals include equipment from the 98% Electrical documents. All VFD's are supplied as 6 Pulse VFD's with filters.
2. Garney has recently received updated Electrical Drawings on 2/9/18. Changes to the selected Gear Equipment will be updated within GMP 2.
3. Electrical Subcontract package will be complimentary to the gear scope and be responsible for reviewing shop drawings, unloading, storing, and installing equipment under this item.
4. If West Villages LLC proceeds with the "Owner Direct Purchase Program", Garney will provide a recommended PO to execute with the selected Gear manufacturer.
5. Rexel has requested using their own terms and conditions. Schneider has requested a few changes to be incorporated with the Garney terms and conditions.
6. Instrumentation and Control Estimates are included with GMP 2.
7. Electrical Subcontract Package is included with GMP 2.

G1-050 – Furnish Generator

1. Generator supply is specific to purchasing the Genset unit and ATS. All handling and installation of this equipment will be included in GMP 2.

G1-060 – Furnish Process Equipment

1. All gates will be provided with manual gate operators
2. All process equipment will be provided per the specifications unless as noted in correspondence with Kimley-Horn

G1-070 – Filters, Chlorine Contact, and Effluent Pump Station

Division 3 – Concrete

1. Reinforcing Steel Quantity based on 250 pounds/CY.
2. Rebar pricing based on current conversations with suppliers and installers.
    a. Furnish Rebar $850.00 / Ton
    b. Install Rebar $500.00 / Ton
    c. $175,418 rebar allowance included in GMP.1 (not including sales tax)
    d. A final adjustment will be made following bidding of Structural reinforcing steel requirements within GMP 2.
3. Structural Concrete is based on Hillsborough County Design Build project specs as e-mailed to Kimley-Horn on 1/31/2018 (attached).
4. Filter, Chlorine Contact/Effluent Pump Station structure concrete take-off is based on the red-lined markup sent to us by Kimley-Horn. All other structures are based on the mechanical drawings provided by Kimley-Horn.

Division 5 – Metals

1. Miscellaneous metals (walkways, platforms, supports, grating, stairs, hatches, etc.) were assumed to be aluminum.
2. Miscellaneous metals takeoff is based on the mechanical drawings. Structural requirements are not yet detailed, therefore member sizes, spacing, connection details, and other specifics were all assumed.
3. Assumed hose stations will be racks not hose reels.
4. Access hatches are based on standard Halliday products.

Division 15 – Yard Piping and Process Piping

1. Ductile Iron Yard Piping is based on the following:
    a. Minimum Pressure Class (PC) will be supplied for all Ductile Iron Pipe.
        i. 4" – 12" = PC 350
        ii. 14" – 20" = PC 250
        iii. 24" = PC 200
        iv. 30" = PC 150
    b. Restrained joints are per Kimley-Horn restrained joint tables shown on drawing C-23. Restrained joints are only included on pumped lines.
    c. Fitting are mechanical joint with Megalug type restraints.
    d. P401 pipe lining: Plant influent through Clarifier Influent, RAS, WAS, Scum, Grit.
    e. Cement Lining: Clarifier Effluent through Plant Effluent.
    f. Specific yard piping materials based on standard practice. No specifications available.
2. Yard piping included is based on current piping shown on P&ID and plan drawings.
3. Valve & operator types are based as shown on P&ID drawings.
4. All Check valves are outside lever and weight type.
5. Concrete thrust blocks are not included.
6. Poly wrap bagging included for ductile iron piping systems. Cathodic protection not included.
7. Deep trench safety design included where required.
8. Pipe bedding 6" below ductile iron pipe included. Crushed rock or similar bedding included.
9. No CLSM – flow fill bedding or backfill included.
10. Figured sufficient acceptable native soil for pipe trench backfill above pipe zone available on site. No import of soil included for backfill.
11. Wax tape wraps at buried flange bolts or coupling restraint rods are not included.
12. Trench dewatering included based on water elevations from soils report.
13. Pipe sleeve and pipe supports are hot dip galvanized, stainless steel not included.
14. Mechanical Joint sleeves for piping connections at structures are included.
15. Encasement of process piping below slabs is included.
16. Galvanized flange accessory bolts included at flanged connections.

G1-020: Deep Injection and Monitoring Wells

a. Installation of wells is not in our contract.
b. GMP-1 includes a $100,000 allowance for additional work associated with the removal of the Deep Injection Well subcontract. The allowance is intended to cover the following
   - Furnish, install and maintain silt fence for laydown area.
   - Clear, strip topsoil, install stone for laydown area.
   - Remove stone, silt fence, spread topsoil and seed laydown area upon completion of well.
c. WORK TO BE INCLUDED IN GMP2: concrete pad, well head piping, electrical, instrumentation & controls

G1-030: Prestressed Tanks

a. Work noted below is for the Secondary Clarifiers and Reject Tank
b. Excavation, dewatering, and slab stone
c. Furnish and install underslab piping and encasement
d. Furnish and install tank slabs, walls, and troughs
e. Paint Tank interior with two coats of TNEMEC 156 or equal
f. Paint Tank exterior with two coats of TNEMEC 66 or equal
g. WORK TO BE INCLUDED IN GMP2: miscellaneous metals, coatings (unless otherwise noted), pipe, equipment, electrical, instrumentation & control, startup / testing and final site cleanup

G1-040: Furnish Electrical Gear

a. Furnish the following equipment in accordance with Division 16 Specifications including factory testing, spare parts, and field services:
   (4) Main Breakers, (4) Switchboards, (4) Motor Control Centers, (2) Power Panels, (5) Lighting Panels, (4) Lighting Contactors, (3) 45 kVA Transformers, (1) Mini Power Zone with Transformer, (8) Variable Frequency Drives, disconnect switches, shunt trips, and off/remote switches.
b. The Owner has the option to direct purchase this equipment.

G1-050: Furnish Diesel Engine Generator

a. Furnish diesel engine generator per Section 16216 including factory testing, spare parts, and field services.
b. The Owner has the option to direct purchase this equipment.

G1-060: Furnish Process Equipment

a. Furnish equipment listed below including factory testing, spare parts, and field services. The Owner has the option to direct purchase this equipment.
b. Section 11130 – Odor Control Equipment
c. Section 11200 – Screening Washer
d. Section 11201 – Grit Removal Equipment
e. Section 11203 – Mechanical Fine Screens
f. Section 11204 – Sluiceway (U-Trough)
g. Section 11300 – Chemical Storage Tanks
h. Section 11301 – Chemical Metering Pumps
i. Section 11400 – Secondary Clarifier Equipment
j. Section 11401 – Screw Centrifugal Pumps
k. Section 11402 – Submersible Chopper Pumps
l. Section 11500 – Fine Bubble Diffusers
m. Section 11501 – High Speed Turbo Blowers
n. Section 11503 – Horizontal Dry Pit Pumps
o. Section 11550 – Coarse Bubble Diffusers
p. Section 11551 – Positive Displacement Blowers
q. Section 11552 – Decant System
r. Section 11600 – Gravity Filter System
s. Section 11601 – Vertical Lineshaft Pumps
t. Section 11700 – Centrifuge Package
u. Section 11800 – Fabricated Gates
v. Section 11900 – Submersible Pumps

G1-070: Filters, Chlorine Contact, and Effluent Pump Station

a. Excavation, dewatering, slab stone, and backfill
b. Furnish and install underslab piping and encasement
c. Furnish and install all concrete and reinforcing
d. Furnish and install metal stairs, handrail, hatches, and grating
e. Furnish and install all piping within five feet of structures – see drawing within proposal
f. Prepare subgrade at the Clarifiers.
g. Backfill Clarifiers to final grade.
h. Install equipment and inline instruments
i. Startup and testing.
j. WORK TO BE INCLUDED IN GMP2: coatings, electrical, inst. & control, exterior piping and site pads

WWW.GARNEY.COM Exhibit D1-4

Section 5: Sub & Supplier Bid Packages

EXHIBIT D2
GMP2 AMENDMENT

The following quotes were received for work associated with GMP-1 and are attached for reference.

G1-010: SITEWORK & SITE UTILITIES

G1-030: PRESTRESSED TANKS

G1-040: FURNISH ELECTRICAL GEAR

G1-050: FURNISH DIESEL ENGINE GENERATOR

G1-060: FURNISH PROCESS EQUIPMENT

GMP2 AMENDMENT (EXEMPLAR)

This GMP2 Amendment (the or this "GMP2 Amendment") is made to the Agreement Between Owner and Construction Manager (where the construction manager is also the constructor) (the "Agreement" or "Contract"), by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor"). All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement, the mutual covenants and agreements contained therein and in this GMP2 Amendment, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

ARTICLE A.1

§A.1.1 Guaranteed Maximum Price
Pursuant to Sections 2.1.5.2, 2.2.1.2, and 2.2.6 of the Agreement, the Owner and CMAR hereby amend the Agreement to establish the Guaranteed Maximum Price for the entire Work of the Project. As agreed by the Owner and CMAR, the Guaranteed Maximum Price is an amount that the Contract Price shall not exceed. The Contract Price consists of the CMAR's Fee plus the Cost of the Work, as that term is defined in Article 7 of the Agreement.

§ A.1.1.1 The Contract Price is guaranteed by the CMAR not to exceed _____ ($_____), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Attached to this GMP2 Amendment as **Exhibit D2-1** is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the Guaranteed Maximum Price.

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

_____
_____
_____
_____
_____

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:

Item	Price ($0.00)

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

_____
_____
_____
_____
_____

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:

_____
_____
_____
_____
_____

{signature page follows}

4842-1924-4113.3

IN WITNESS WHEREOF, the parties hereto have caused this GMP2 Amendment to be executed effective upon issuance of the date last executed below (the "Effective Date").

CMAR

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION
By _____
Name _____
Title _____
Date _____
State License No _____
Expiration Date _____

OWNER

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By _____
Name _____
Title _____
Date _____

4842-1924-4113.3

EXHIBIT D2-1
(itemized statement of the GMP organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the GMP)

4842-1924-4113.3

EXHIBIT E
WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

4843-5410-2885.14

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that.

1. Affiant is the _____ of **GARNEY COMPANIES, INC.**, a Missouri corporation d/b/a **GARNEY CONSTRUCTION** (the "CMAR").

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the CMAR, and (b) the facts stated herein are true and correct.

3. Pursuant to a contract between West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and CMAR dated _____ (the "Contract"), the CMAR has been engaged to furnish labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____ *(insert property description)* _____ (the "Property").

4. The CMAR has submitted a current Application for Payment to Owner in connection with this Release.

5. As of the date of this Release, the CMAR has performed, or caused to be performed, all of the work shown on the current Application for Payment submitted to Owner.

6. Upon receipt from Owner the payment in the amount of $_____, the CMAR hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract.

7. Attached hereto as **Exhibit E-1** is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit E-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of CMAR's activities pursuant or ancillary to the performance of its Contract with the Owner.

8. The CMAR hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through _____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract.

9. The CMAR further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the CMAR hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the CMAR's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit E-1 (if any).

10. This Release constitutes a representation by the CMAR that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The CMAR hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release.

11. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a **GARNEY CONSTRUCTION**

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name: _____
(Notarial Seal) NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires: _____

Exhibit E-1

EXHIBIT F
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP
19503 S. West Villages Parkway, #14
Venice, Florida 34293

{insert date}, 2018

VIA EMAIL to tbehler@garney.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

Timothy M. Behler, Chief Operating Officer
Garney Companies, Inc
370 E. Crown Point Road
Winter Garden, FL 34787

Re: **NOTICE TO PROCEED**/Construction of the Southwest Wastewater Reclamation Facility ("SWWWRF") located within the West Villages Improvement District ("WVID")

Dear Mr. Behler

Pursuant to Section 2.3.1.2 of the *{insert date}* Agreement between West Villages Construction, LLLP ("Owner") and Garney Companies, Inc ("CMAR") (the "Agreement"), this letter hereby serves as Owner's Notice to Proceed the Construction Phase as such term is provided in the Agreement

Sincerely,

Paul J. Erhardt, President

cc: Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT G
FINAL AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that:

1. Affiant is the _____ of GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION (the "CMAR"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the CMAR.

2. Pursuant to a contract dated _____, 20__ (the "Agreement"), between West Villages Construction, LLLP, a Florida limited liability limited partnership and CMAR, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the CMAR has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The CMAR represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit G-1** (if any), attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner, Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit G-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the CMAR and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, CMAR hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the CMAR hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9. This Release is made by the CMAR with full knowledge of the applicable laws of the State of Florida.

10. This Release constitutes a representation by CMAR, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, related to the Property. The CMAR warrants and represents that it has not assigned or transferred any of its rights or claims to any other person or party.

DATED on _____, 201_.

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name: _____
NOTARY PUBLIC
(Notarial Seal) Commission No.: _____
State/Commonwealth of _____
My Commission Expires: _____

EXHIBIT H
INSURANCE REQUIREMENTS

EXHIBIT H
INSURANCE REQUIREMENTS

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CMAR INSURANCE REQUIREMENTS. All capitalized terms shall have the same meaning ascribed to them in the Agreement and General Conditions.

1. Owner shall purchase and maintain the following insurance policies and coverage with at the following minimum limits during the term of this Agreement and, as provided herein.

   a. Builders Risk "all-risks" completed value or equivalent policy form and sufficient to cover:

      i. The total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

      ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Engineer's and CMAR's services and expenses required as a result of such insured loss.

      iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include CMAR's or any Subcontractors machinery, tools or other equipment).

2. CMAR shall purchase and maintain the following insurance and required coverage with at least the following minimum limits as provided herein and in the Agreement and General Conditions.

STANDARD GARNEY POLICY COVERAGES/LIMITS

Type of Policy	Coverage	Standard Limits

Workers Compensation		Statutory
Employers Liability	Bodily Injury by Accident (each accident)	$1,000,000
	Bodily Injury by Disease (policy limit)	$1,000,000
	Bodily Injury by Disease (each employee)	$1,000,000
General Liability	General Aggregate Limit Per Project	$2,000,000
	Products/Completed Operations Aggregate	$2,000,000
	Personal & Advertising Injury Aggregate	$1,000,000
	Each Occurrence	$1,000,000
	Damage to Premises Rented	$300,000
	Medical Expense (any one person)	$10,000
Automobile	Liability (any auto)	$2,000,000
	Uninsured/Underinsured Motorists (owned autos only)	$1,000,000
	Auto Medical Payments (owned autos only)	$5,000
Umbrella Liability	Each Occurrence	$20,000,000
	General Aggregate	$20,000,000
	Products/Completed Operations Aggregate	$20,000,000
Excess Liability	Each Occurrence	$25,000,000
	General Aggregate	$25,000,000

a Umbrella/Excess Liability Insurance. Coverage shall be in excess of General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The CMAR shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that CMAR procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees.

b Contractor's "General Liability" policy shall be a policy pursuant to Section 6.03 of the General Conditions.

EXHIBIT I
WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS

Prepared by

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
5. *Bidder*—An individual or entity that submits a Bid to Owner.
6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor or CMAR*—The individual or entity with which Owner has contracted for performance of the Work. Contractor shall have the same meaning as CMAR as provided in the Agreement.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and

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the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.

26. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.

27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

31. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.

32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.

33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.

35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

42. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

44. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

46. *Unit Price Work*—Work to be paid for on the basis of unit prices.

47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day:*

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

E. *Furnish, Install, Perform, Provide:*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules:* Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the Instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document), or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be

responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be entitled to an adjustment in the Contract Times and Contract Price for the actual extended General Conditions/General Requirements costs, and site operated equipment durations, and material cost increases for materials directly purchased by Contractor or any of its Vendors, Subcontractors or sub tier subcontractors. Except as specifically provided in the preceding sentence, Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

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3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its GMP and Progress Schedule. Owner will notify Contractor of any known encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility

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for (a) damage to the Site, (b) damage to any such other adjacent areas used for Contractor's operations, (c) damage to any other adjacent land or areas, and (d) for injuries and losses sustained by the owners or occupants of any such land or areas, provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota

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County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the

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Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors, or time required for, performance of the Work; subject, however, to the following:
   a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
   a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
   b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
   c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
   a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
   b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
   c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
   d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Possible Price and Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's General Conditions/General Requirements cost, and site operated equipment durations, and materials cost to Contractor or any of its Vendors, Subcontractors or sub tier subcontractors or time required for, performance of the Work; subject, however, to the following:
   a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
   b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
   d. Contractor provided notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times or Contract Price, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times or Contract Price, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of available insurance with an aggregate of Five Million and No/100 Dollars ($5,000,000) Owner shall

indemnify, defend and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, and up to the amount of Five Million and No/100 Dollars ($5,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:

1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.

3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply will all bond requirements after any assignment of the Agreement pursuant to Section 11.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit O to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and

documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
   a. Such insurance shall be maintained for three years after final payment.
   b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together), or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

H. *Contractor's professional liability insurance:* If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by

Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial GMP. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
   a. in the exercise of reasonable judgment Engineer determines that:
      1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics,

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) it has a proven record of performance and availability of responsive service, and

4) it is not objectionable to Owner.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Cost of the Work. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

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3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

a. shall certify that the proposed substitute item will:

1) perform adequately the functions and achieve the results called for by the general design,

2) be similar in substance to that specified, and

3) be suited to the same use as that specified.

b. will state:

1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,

2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

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I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

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7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Springs Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 11.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit O), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
   a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
   b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
   c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
   d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:
   a. Contractor shall submit the number of copies required in the Specifications.
   b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
2. *Samples*:
   a. Contractor shall submit the number of Samples required in the Specifications.
   b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of Ten Million and No/100 Dollars ($10,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, Florida Statutes, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, Florida Statutes, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor,

any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except

design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. an itemization of the specific matters to be covered by such authority and responsibility; and

3. the extent of such authority and responsibilities.

B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and

other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements, Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the

responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by

Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times, or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

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11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

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b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of

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such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event

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giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

A. See Agreement, Article 7.

13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the GMP to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Notwithstanding any provisions regarding shared savings, any unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
3. by manufacturers of equipment furnished under the Contract Documents;
4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of

defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are

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stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing

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Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

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6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. the Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. the Contract Price has been reduced by Change Orders;

i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

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k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within three (3) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch

list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.

2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*:

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents;

b. consent of the surety, if any, to final payment;

c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

d. a list of all disputes that Contractor believes are unsettled; and

e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work, except to the extent a Lien is attributable to Owner.

3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance*:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;

2. correct such defective Work;

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item

may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and
3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate

the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or
2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or
3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner, Contractor, nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to each other for any claims, costs, losses, or damages sustained by each other on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

Request for Qualifications (RFQ)

For

Construction Manager at Risk (CMAR) Services

For

The Southwest
Water Reclamation Facility (SWWWRF)

Statements of Qualifications Due
Tuesday August 29th, 2017

RFQ for CMAR Services
for
The Southwest
Water Reclamation Facility (WRF)

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I. Introduction

Based on projected wastewater needs of the West Villages (WV) and proposed revised effluent standards, a new water reclamation facility (WRF) must be constructed and on-line no later than June 30, 2019 to maintain the WV development program. West Villages is seeking Statements of Qualifications (SOQs) from qualified firms (Proposers) offering Construction Manager at Risk (CMAR) services for the Project. Services will include design review of structural, mechanical, plumbing, electrical, architectural, site/civil, instrumentation, and process treatment facilities during the design phase; value engineering and constructability review / input; preliminary construction estimating and scheduling; management of project bidding; selection of sub-contractors; development of guaranteed maximum price (GMP) contracts; oversight/management of construction, and coordination with project engineering and the WV's project management staff.

The Project schedule is critical. Construction must be complete by May 31, 2019 and the WRF must be operational by June 30, 2019.

II. Scope of Work

The facilities to be constructed for the Southwest WRF (SWWRF) are described in the attached Preliminary Design Report (PDR), dated March 31, 2017. The SWWRF will generally consist of the following facilities:

1. Headworks – consisting of mechanical screening and grit removal.
2. A Modified Ludzack-Ettinger (MLE) treatment process – consisting of two 1.0 MGD treatment trains that include anoxic and aeration basins, submersible mixers, fine bubble aeration, dissolved oxygen (DO) control and ammonia monitoring systems, and an internal mixed liquor recycle (IMLR) pumping system.
3. Secondary clarification facilities – consisting of circular scraper type secondary clarifiers with dual skimmers and full radius scum removal, return activated and waste activated sludge (RAS and WAS) pumping systems, and scum pumps.
4. Deep bed sand filters – consisting of sand filtration and controls, and providing for the ability to convert the filters to denitrification filters should the need arise in the future to meet more stringent nitrogen limits.
5. High level disinfection – consisting of liquid sodium hypochlorite (NaOCl) disinfection with metering pumps and dual chlorine contact chambers.
6. Effluent transfer pump and deep injection well pump stations.
7. Reclaimed water high-service pump station.
8. A 2.0 MG prestressed concrete reject ground storage tank.
9. Onsite sanitary lift station.

10. Process Buildings:
    a. Blower building consisting of high speed turbo blowers and controls for the aeration system.
    b. Chemical storage (NaOCl).
    c. Solids handling.
    d. Motor Control Center (MCC) buildings.
11. Operations Building – consisting of offices, break room, restrooms/showers, process laboratory, and other miscellaneous rooms as generally described in the PDR.

III. Construction Manager at Risk (CMAR) Scope of Services

The specific CMAR scope of services will be completely defined in the final CMAR Service Agreement. A draft Service Agreement will be provided under a separate cover. Services to be provided will generally consist of the following:

Pre-construction

- Advise and consult with the project Engineer during project design
- Work with WV and the project Engineer to develop programs for quality control, budget monitoring and control, and project schedule monitoring and control
- Provide value engineering and constructability reviews
- Prepare conceptual and detailed cost estimates at 30%, 60%, and 100%
- Develop a phasing and sequencing plan with WV and the project Engineer
- Utilize industry best practices to ensure constructability of the design
- Prepare and let pre-qualifications and/or bid packages for all subcontractors, Vendors, and suppliers
- Provide Guarantee Maximum Price (GMP) proposals

Construction Services

- Manage the construction process including coordination of all subcontractors, vendors, and equipment suppliers
- Manage equipment start-up and testing, assist the operations staff while placing the facility into operation, provide construction close-out documents including Operations and Maintenance Manuals, and provide as needed services during the post-construction warranty period.
- Prepare and manage the Project schedule and provide weekly detailed updates

- Establish and maintain all quality control standards
- Establish and enforce a Project-wide construction safety program

IV. General Requirements

All questions from Proposers are to be directed to the Engineer contact identified in Section IX - Contacts/Further Information.

Each Proposer is required to submit the following information on or before August 14, 2017 in a sealed box or envelope clearly labeled "Southwest Water Reclamation Facility CMAR Statement of Qualifications" to the WV.

1. Four bound hardcopies of SOQs
2. One electronic copy (CD or USB Flash Drive) of the complete SOQ in PDF format

V. Contents of SOQs

Each SOQ should include the following items in the order listed. SOQs not meeting the minimum qualifications herein could result in a rejection, without Proposer recourse.

- A signed cover letter from a principal of the Proposer identifying the Proposer's contact information, expressing interest in the Project, and certifying that sufficient resources in personnel and equipment are available to meet the construction deadline. The letter should describe the Proposer's structure, i.e., joint venture, corporation, etc. *(1 Page Maximum)*
- **Section 1 – Introduction** *(2 Pages Maximum)*: A statement of the Proposer's philosophy, goal, vision statements and/or guiding principles. Identify distinguishing factors that set the Proposer apart as the best firm to ensure Project success.
- **Section 2 – Project Approach** *(5 Pages Maximum)*: An outline of the proposed process to be used for the services to be rendered, including expected outcomes, timelines, and deliverables detailed for each critical phase. Identify assumptions and expectations regarding cooperation and assistance from the WV and Engineer.

  Include, as a minimum, descriptions of the following:

  (a) How the Proposer will ensure the Project will be constructed on-time and within budget.

  (b) The process that will be used to select vendors, sub-contractors, and other service providers for the Project.

  (c) Overview and key components of the Proposer's Safety Program

  (d) How budget and schedule will be managed

- **Section 3 – Project Team** *(4 Pages Maximum)*: Provide an organizational chart and resumesof Proposer's key project team members, including at a minimum, the following Project roles: Project Executive, Project Manager, Chief Estimator, Superintendent, and QA/QC Manager. Include a statement certifying that the proposed team members will not be changed for the duration of the Project without approval by the WVID. Highlight prior experience with wastewater treatment facility projects in Florida and CMAR experience.
- **Section 4 – Proposer Experience** *(5 Pages Maximum)*: Descriptions of five (5) previous projects completed in the last ten (10) years by the Proposer. The projects listed in this section must meet the following minimum qualifications:

  (a) The Proposer shall have completed, as prime contractor, at least five (5) wastewater treatment plant projects with a contract value exceeding $5,000,000 within the last ten (10) years.

  (b) The Proposer shall have completed, as prime contractor, at least three (3) wastewater treatment plant projects, in Florida, using Design-Build or Construction Manager at Risk (CMAR) delivery within the past ten (10) years. At least one (1) of the three (3) required projects must be a CMAR project with a minimum contract value of $20,000,000.

  Provide information on the five (5) projects using the form provided in *Appendix A – Form for Responding to Proposer Experience (this form may be recreated)*. Proposer may include one (1) additional page for each project to illustrate aspects of the completed project to assist the evaluation committee assess the Proposer's experience with relevant projects.

- **Section 5 – References:**

  Provide three (3) references for projects either in progress or completed during the last ten (10) years, which had a construction value of over $5.0 million at the time of performance. Provide these references using the form provided in *Appendix B – References Form (this form may be recreated)*.

- **Section 6 – Performance and Financial Data:** Provide each of the following items on the Appendix C Forms included at the end of the RFQ:

  (a) Proposer Safety Record

  (b) Termination Information

  (c) Surety Claims Information

  (d) Litigation, Arbitration, or Mediation Participation Information

  (e) Addenda Acknowledgement

Additionally, provide each of the following items:

(f) Florida General Contractor's License

(g) A letter from the responding Proposer's surety confirming the Proposer's ability to secure bonding for up to $30,000,000.

VI. Standard Insurance coverages carried by the Proposer. Anticipated RFQ Review and Selection Timeline

The anticipated timeline for the review of qualification statements and selection of a Proposer is as follows:

Wednesday August 23, 2017	RFQ Distributed
Tuesday August 29, 2017	SOQs Due (Close of Business)
Thursday August 31, 2017	Interviews

VII. Additional Information and Contacts

West Village appreciates your interest in providing services for this Project. For further information or questions regarding the content of this Request for Qualifications, please contact:

Ashley Miele, P.E.
Kimley-Horn and Associates, Inc.
1777 Main Street, Suite 200
Sarasota, FL 34236

APPENDICES

APPENDIX A– FORM FOR RESPONDING TO PROPOSER EXPERIENCE

1. Project Title and Location: _____
2. Project Description: _____
3. Owner's Name: _____
   Owner Contact Person and Phone Number: _____
4. Engineer of Record: _____
   Engineer Contact Person and Phone Number: _____
5. Total Project Cost: _____
6. Total Value of Change Orders: _____
   Owner Added: _____
7. Was construction completed within budget? (if not, provide explanation) _____
   _____
8. Project Duration (Dates): _____
   Construction Start Date: _____ Completion Date: _____
9. Was construction completed within schedule? (if not, provide explanation) _____
   What was the original construction completion date? _____
10. Location of office(s) performing work: _____
11. Was applicant the prime contractor or subcontractor? _____
12. Did this project utilize alternative delivery (CMAR or Design-Build)? _____
13. What work was performed in-house? _____
14. Type/Scope of services provided. _____
15. Names of key team personnel for this project _____
16. Which members of your proposed team worked on this project? _____
17. What value engineering / constructability ideas were developed to reduce time and costs for the Owner?

_____

APPENDIX B– REFERENCES FORM

REFERENCE #1	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #2	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

REFERENCE #3	
Name of Project:	
Completion Date:	
Project Delivery Method:	
Owner Entity Name:	
Contact Person Name, Title, Phone Number, Email Address:	

APPENDIX C - PROPOSER SAFETY RECORD

Proposer Name: _____

Experience Modification Ratings (EMR)

Year	EMR Value	Explanation*
2016		
2015		
2014		
2013		

*Provide explanation of any value other than 1.00. Attach additional page(s) if necessary

OSHA-Recordable Incident Rate & Events

Year	2016	2015	2014
Rate			

ATTACH OSHA FORM 300 FOR EACH OF THE FOLLOWING YEARS:

2016, 2015, 2014

APPENDIX C - PROPOSER TERMINATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), identify any project(s) from which Proposer has been terminated in the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Project Start Date: _____
   Termination Date: _____
   Reason for Termination: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Project Start Date: _____
   Termination Date: _____
   Reason for Termination: _____
   _____
   _____
   _____

APPENDIX C - SURETY CLAIMS INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any claim(s) made against the Proposer's surety bond within the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Bond Type (e.g., Bid, Performance, Payment): _____
   Claim Amount: _____
   Reason for Claim: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Bond Type (e.g., Bid, Performance, Payment): _____
   Claim Amount: _____
   Reason for Claim: _____
   _____
   _____
   _____

APPENDIX C - LITIGATION, ARBITRATION, OR MEDIATION PARTICIPATION INFORMATION

Proposer Name: _____

In the space below (attach additional pages if necessary), provide information regarding any project-related litigation, arbitration, or mediation in which the Proposer has been party within the last five (5) years, and explain.

1. Project Name: _____
   Client: _____
   Parties to Action: _____
   Proposer Role: _____
   Events Precipitating Action: _____
   _____
   _____
   _____

2. Project Name: _____
   Client: _____
   Parties to Action: _____
   Proposer Role: _____
   Events Precipitating Action: _____
   _____
   _____
   _____

APPENDIX C - ACKNOWLEDGEMENT OF ADDENDA

Proposer Name: _____

Proposer acknowledges receipt of the following

Addenda: Number	Date
_____	_____
_____	_____

EXHIBIT K
RESOLUTION 2016-22, WVID

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

4843-5410-2685.14

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. **Purpose**
In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. **Scope**
These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. **Definitions**

A. **Agent**
The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. **Construction Services**
All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. **Contractor or Provider of Construction Services**
The entity or individual that provides Construction Services through direct contract with the District.

D. **Date Stamped**
Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. **Improper Invoice**
An invoice that does not conform to the requirements of a Proper Invoice.

F. **Improper Payment Request**
A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. **Non-Construction Goods and Services**
All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. **Proper Invoice**
An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. **Proper Payment Request**
A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. **Provider**
Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. **Purchase**
The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. **Vendor**
Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. **Proper Invoice/Payment Request Requirements**

A. **General**
Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. **Sales Tax**
Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. **Federal Identification and Social Security Numbers**
Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. **Proper Invoice for Non-Construction Goods and Services**
All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
   a. A complete item description
   b. Quantity purchased
   c. Unit price(s)
   d. Total price (for each item)
   e. Total amount of invoice (all items)
   f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
   a. Itemized description of services performed
   b. The location and date of delivery of the services to the District
   c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
   d. Itemization of other direct, reimbursable costs (including description and amount)
   e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
      i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
      ii. Paid receipt
      iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. **Proper Payment Request Requirements for Construction Services**
Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. **Submission of Invoices and Payment Requests**
The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. **Mailing and Drop Off Address**

   _____
   c/o _____
   _____
   _____

2. **Email Address**

   _____

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. **Receipt of Proper Invoice**
Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. **Receipt of Improper Invoice**
If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:
   a. On which delivery of personal property is fully accepted by the District;
   b. On which services are completed and accepted by the District;
   c. On which the contracted rental period begins (if applicable); or
   d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. **Rejection of an Improper Invoice**
The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

   The District's rejection of an Improper Invoice must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and
   3. State actions necessary to correct the Improper Invoice.

   If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. **Payment of Undisputed Portion of Invoice**
If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. **Receipt of Proper Payment Request**
The time at which payment is due for Construction Services from the District is as follows:

   a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

   The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

   b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. **Receipt and Rejection of Improper Payment Request**
a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

   b. The District's rejection of the Improper Payment Request must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and

   3. State actions necessary to correct the Improper Invoice.

   c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. **Payment of Undisputed Portion of Payment Request**
If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor
If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. **Late Payment Interest Charges**

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.)

A. **Related to Non-Construction Goods and Services**
All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.)

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. **Related to Construction Services**
All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. **Report of Interest**
If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities, and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District, and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A**, is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work
The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation
The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs
Other direct costs include items such as printing, drawings, travel, deliveries, et ceteri, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

By _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment 1

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

2. Manufacturer or brand, model or specification number of the item.

_____

_____

3. Quantity needed as estimated by CONTRACTOR. _____

4. The price quoted by the supplier for the construction materials identified above.

$_____

5. The sales tax associated with the price quote. $_____

6. Shipping and handling insurance cost. $_____

7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____
Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____
Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C..

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____
Signature of Authorized Representative of Governmental Entity Title

West Villages Improvement District _____
Purchaser's Name Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

EXHIBIT M
RESOLUTION 2016-21, WVID

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as Exhibit A for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary — Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida*, as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes*.

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes*. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: Ch. 2004-456(2)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(3)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone numbe: for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
  (a) District Counsel
  (b) District Engineer
  (c) District Manager
    1. Financial Report
    2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the

existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(q), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual;

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual,

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(J)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 253.28, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation, and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria.

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation, and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(16), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening, provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

   Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

   Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

   (a) The project is undertaken as repair or maintenance of an existing public facility;

   (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

   (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

   (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07(1), 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials Included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT N
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, ____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID")(West Villages and WVID are each a "Party" and collectively referred to as the "Parties") Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

WITNESSETH:

WHEREAS, West Villages and GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION ("CMAR") entered into that certain Agreement dated _____ ("Agreement") for the construction of a 2.0 million gallons per day (MGD) (having future buildout capacity of 6.0 MGD) Southwest Wastewater Reclamation Facility (SWWWRF) located within the West Villages Improvement District, a copy of which Agreement, including all change orders approved to date, is attached and incorporated as **Exhibit N-1**;

WHEREAS, CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as **Exhibit N-2**;

WHEREAS, West Villages has obtained a release from CMAR acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising as a result of or connected with this Assignment, which is attached hereto as **Exhibit N-3**; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith, (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound; (iii) all approved payments to CMAR and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2. As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment.

3. This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida. The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties.

4 This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Print Name: _____
Its: _____

"WVID"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit N-1
Agreement

See attached

Exhibit N-2
Bonds

See attached

Exhibit N-3
Release

See attached

GARNEY COMPANIES, INC., a Missouri corporation
d/b/a GARNEY CONSTRUCTION
1333 NW Vivion Road
Kansas City, Mo 64118

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Garney Companies, Inc. ("CMAR"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and CMAR dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID"). CMAR acknowledges and accepts such assignment and its validity.

2. CMAR represents and warrants that CMAR has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. CMAR represents and warrants that all payments to CMAR and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

_____{insert description of any outstanding dispute}

4. CMAR hereby releases and waives any claim it may have against the WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____day of _____, 201__.

"CMAR"

_____
Print Name _____

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

_____
Print Name _____

By _____
Name _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **GARNEY COMPANIES, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name: _____
(Notarial Seal) NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires: _____

EXHIBIT O
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the ____, __ 2018 Agreement between West Villages Construction, LLLP and Garney Companies, Inc , a Missouri corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as Exhibit O-1. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and CMAR, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS, NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the Florida Statutes, CMAR shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the Florida Statutes. Such bond and/or security shall be for 100% of the Project GMP and shall be in effect for a full year from the time of completion of the Project. CMAR agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), Florida Statutes. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. CMAR shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. CMAR shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If CMAR fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, CMAR shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the CMAR shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the Florida Statutes. CMAR shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), Florida Statutes.

5. INDEMNIFICATION. CMAR shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 8.1.6.3 and 8.1.6.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the CMAR an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the CMAR may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to CMAR. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the CMAR.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to CMAR that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided CMAR with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the CMAR shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the CMAR. Each Certificate of Entitlement will be in the format specified by Rule 12A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the CMAR will use in the identified public works, (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. CMAR shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. CMAR understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the Florida Statutes, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the CMAR to allow public access to all documents, papers, letters, or other material made or received by the CMAR in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.

4822-7022-7795.4

CMAR shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by CMAR to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, Florida Statutes or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
_____
Attn: _____

With a copy to:

Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement pursuant to section 287.135(5), Florida Statutes, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-2**. If the CMAR is found to have submitted a false certification as provided in section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, CMAR shall properly execute a sworn statement under section 287.133(3)(a), Florida Statutes, regarding public entity crimes, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit O-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, CMAR shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that CMAR is able to execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit O-4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum

"CMAR"

Print Name _____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

Print Name _____
Print Name _____

By: _____
Name: _____
Title: _____
Date: _____

"WVID"
WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

Print Name _____
Print Name _____

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit O-1: Agreement
Exhibit O-2: Scrutinized Companies Statement
Exhibit O-3: Public Entity Crimes Statement
Exhibit O-4: Trench Safety Act Statement

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EXHIBIT O-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Garney Companies, Inc.
(print name of entity submitting sworn statement)

whose business address is: 1333 NW Vivion Road, Kansas City, MO 64118

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4822-7022-7795.4

EXHIBIT O-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), FLORIDA STATUTES, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Garney Companies, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 1333 NW Vivion Road, Kansas City, MO 64118

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

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Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), Florida Statutes, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

EXHIBIT O-4

See attached

4822-7022-7795.4

4822-7022-7795.4

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS
Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90-96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

_____Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

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WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total:	

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2017, by _____, of Garney Companies, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

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EXHIBIT P
List of Permits Required for the Work Pursuant to 2.1.6.2

2/13/2018

West Villages SWWRF Permits

Agency	Permit Type	Responsibility	Status	Notes	Cost
FDEP	Domestic WW Facility Permit	Kimley-Horn	Submitted	Submitted by Steele on 4/14/17	$5,000
FDEP	Class I Municipal Well	Kimley-Horn	Submitted	Submitted by KH on 1/25/18	TBD
FDEP	Environmental Resource Permit	Kimley-Horn	Approved	Issued February 28, 2018	$320
FDEP	Water/Wastewater Construction Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve contract	TBD
USACE	Jurisdictional Determination (JD)	Kimley-Horn	Submitted	Site visit to be rescheduled March. The JD acknowledge that USACE will determine that wetlands are not in their jurisdiction therefore no USACE permit is required	$0
FDOT	Utility ROW Permit	Kimley-Horn	Not Submitted	Waiting on Client to approve contract	TBD
FDOT	Temporary Driveway Permit	Kimley-Horn	Submitted	Anticipate permit early March	$250
FDOT	Permanent Driveway Permit	Kimley-Horn	Not Submitted	Anticipate permit submittal early March	$250
City of North Port	Development Order	Kimley-Horn	Approved	Application has been reviewed and approved with conditions. Waiting for Development Order to be issued by Planning Department.	$9,333
City of North Port	Land Clearing Permit	Garney	Not Submitted	Garney will submit the permit applications after Owner approves GMP1 Agreement	TBD
City of North Port	Affidavit of Best Management Practice Compliance	Garney	Not Submitted	Requires Internet sub to be registered with City of Northport	TBD
City of North Port	Building Permit	Kimley-Horn/ Garney	Not Submitted	Will complete system & sealed plans Garney to submit applications & schedule inspections	TBD
City of North Port	Fire Alarm Permit	Kimley-Horn/ Garney	Not Submitted	Will complete system & sealed plans Garney to submit application & schedule inspections	TBD
SWFWMD or FDEP	Dewatering Permit	Garney	Not Submitted	Garney will submit the permit application after Owner approves GMP1 Agreement	TBD

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EXHIBIT O-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by Timothy M Behler, COO - Eastern Plant Operations
(print individual's name and title)

for Garney Companies, Inc.
(print name of entity submitting sworn statement)

whose business address is: 1333 NW Vivion Road, Kansas City, MO 64118

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

Signature by authorize representative

STATE OF FLORIDA
COUNTY OF Florida

Sworn to (or affirmed) and subscribed before me this 12th day of March, 2018 ~~2017~~ by Timothy M Behler, of Garney Companies, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

TRACY K. WINSOR NOTARY PUBLIC STATE OF FLORIDA
My Comm. Expires Dec. 07, 2020
No. GG 43575

Notary Public, State of Florida

4822-7022-7795.4

EXHIBIT O-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), FLORIDA STATUTES, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of COO - Eastern Plant Operations for Garney Companies, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 1333 NW Vivion Road, Kansas City, MO 64118

4. Contractor's Federal Employer Identification Number (FEIN) is 44-0658613

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), Florida Statutes, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this 12th day of March, 2018 ~~, 2017.~~

"CONTRACTOR"

Garney Companies, Inc.

By: _____

Its: Timothy M Behler
COO - Eastern Plant Operations

STATE OF FLORIDA
COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 12th day of March, 2018 . ~~2017,~~ by Timothy M Behler , of Garney Companies, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

TRACY K. WINSOR NOTARY PUBLIC STATE OF FLORIDA
My Comm. Expires Dec. 07, 2020
No. GG 43575

_____
Notary Public, State of Florida

4822-7022-7795.4

EXHIBIT O-4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

Seven Hundred Five and no/cents Dollars $ 705.00
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this 13th day of March, 2018. ~~2017~~.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: Timothy M Behler, COO - Eastern Plant Operations

STATE OF FLORIDA
COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 13th day of March, 2018, ~~2017~~, by Timothy M Behler, of Garney Companies, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

TRACY K. WINSOR NOTARY PUBLIC STATE OF FLORIDA
My Comm. Expires Dec. 07, 2020
No. GG 43575

_____
Notary Public, State of Florida

4822-7022-7795.4

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
Extended Layback - Open cut	470	$1.50	$705.00
		Project Total:	$705.00

Dated this 13th day of March, 2018, ~~2017~~.

"CONTRACTOR"

Garney Companies, Inc.

By: _____
Its: Timothy M Behler, COO - Eastern Plant Operations

STATE OF FLORIDA
COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 13th day of March, 2018, ~~2017~~, by Timothy M Behler, of Garney Companies, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

TRACY K. WINSOR NOTARY PUBLIC STATE OF FLORIDA My Comm. Expires Dec. 07, 2020 No. GG 43575

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

4822-7022-7795.4

GMP2 AMENDMENT

This GMP2 Amendment (the or this "GMP2 Amendment") is made to the Agreement Between Owner and Construction Manager (where the construction manager is also the constructor) by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Garney Companies, Inc., a Missouri corporation d/b/a Garney Construction, (the "CMAR" or "Contractor") (the "Agreement" or "Contract"), as such Agreement was assigned by Owner to West Villages Improvement District, a local unit of special purpose government ("WVID"). All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement, the mutual covenants and agreements contained therein and in this GMP2 Amendment, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

ARTICLE A.1

§A.1.1 Guaranteed Maximum Price

This GMP2 Amendment applies to the Agreement between the WVID and CMAR, which Agreement was previously assigned to the WVID. Pursuant to Sections 2.1.5.2, 2.2.1.2, and 2.2.6 of the Agreement, the Owner and CMAR hereby amend the Agreement to establish the Guaranteed Maximum Price for the entire Work of the Project. As agreed by the Owner and CMAR, the Guaranteed Maximum Price is an amount that the Contract Price shall not exceed. The Contract Price consists of the CMAR's Fee plus the Cost of the Work, as that term is defined in Article 7 of the Agreement.

§ A.1.1.1 The Contract Price is guaranteed by the CMAR not to exceed **thirty-seven million nine hundred seventy nine thousand one hundred sixty three dollars and no cents ($37,979,163.00)**, subject to additions and deductions by Change Order as provided in the Contract Documents. (Amount listed above does not include pre-construction value of $135,000.00)

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Attached to this GMP2 Amendment as **Exhibit D2-1** is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the Guaranteed Maximum Price.

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

See Exhibit D2-2, Section 3: Clarifications & Assumptions.

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:

Item	Price ($0.00)
FP&L Connections	$75,000.00
Monorail Hoist	50,000.00
Communications System	65,000.00

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based: **See Exhibit D2-2, Section 3: Clarifications & Assumptions, and Section 4: RFI Log**

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract: N/A

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

See Exhibit D2-2, Section 2: Baseline Documents and Building Package Bidding Specifications

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

See Exhibit D2-2, Section 2: Baseline Documents

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information: **See attached Exhibit D2-2 GMP Summary**

{signature page follows}

IN WITNESS WHEREOF, the parties hereto have caused this GMP2 Amendment to be executed effective upon issuance of the date last executed below (the "Effective Date").

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: COO – Eastern Plant Operations
Date: 5/2/2018
State License No. CGC151632
Expiration Date: 8/21/2018

WVID:

_____
Print Name

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

_____
Print Name

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors
Date: _____

IN WITNESS WHEREOF, the parties hereto have caused this GMP2 Amendment to be executed effective upon issuance of the date last executed below (the "Effective Date").

CMAR:

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: COO – Eastern Plant Operations
Date: 5/2/2018
State License No. CGC151632
Expiration Date: 8/21/2018

Print Name Todd Wahraska

Print Name Lindsay Whelan

WVID:

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors
Date: 6/14/18

EXHIBIT D2-1

(*itemized statement of the GMP organized by trade categories, allowances, contingencies, alternates, the CMAR's Fee, and other items that comprise the GMP*)

GMP-1 TOTAL		**14,304,745**	
GMP-2 WORK			
P1	Work Package 1 - Concrete Scope	3,522,913	Allen Concrete
P2	Work Package 2 - Mechanical Scope	3,700,000	Garney
P3	Work Package 3 - Yard Pipe Scope	2,400,000	Garney
P4	Work Package 4 - Sitework Scope	1,374,746	Woodruff
P5	Work Package 5 - Metal Building Scope	1,300,000	Holliday
P6	Work Package 6 - Painting & Coating Scope	412,898	Cypress
P7	Work Package 7 - I&C Scope	1,175,000	Rocha
P8	Work Package 8 - Electrical Scope	5,695,000	Gilmore
G1-010	Sitework and Site Utilities Revision	177,173	Woodruff
G1-040	Furnish Electrical Gear Revisions	58,045	Schneider
G1-060	Furnish Process Equipment Revisions	-37,254	Final
G2-060	Furnish Process Equipment - Septage Receiving	132,550	Firm
G1-070	Filters, Chlorine Contact, and Effluent Pump Station Rebar Revisions	147,746	Final
G1-070	Filters, Chlorine Contact, and Effluent Pump Station DIV 5 & DIV 15 Revision	28,051	Final
	Owners Direct Purchase (ODP) Revision - Sales Tax Savings	-5,874	Final
	Communication System Allowance	w/ I&C	
	WIFI Towers Furnished & Installed (Added on 100% Drawings)	168,150	Kirms
	Monorail Hoist Allowance	50,000	
	FP&L Allowance	75,000	
	Furnish & Install Furnishings/Lab Equipment Allowance	NOT IN CONTRACT	
	City of North Port Integrator Allowance	NOT IN CONTRACT	
	Deduct GMP-1 Allowance for Forcemain (with P4)	-135,000	
	Offsite Plant Effluent Pipeline	NOT IN CONTRACT	
	CMAR's Contingency	800,000	
	CMAR GC's (Based on 18 months, additional months: $65,000/mo.)	1,165,000	
INDIRECT COSTS GMP-2			
0.15%	CMAR Insurance	35,513	
0.40%	Payment & Performance Bond	94,700	
6%	Construction Fee, 6%	1,340,061	
GMP-2 TOTAL		**23,674,418**	

TOTAL PROJECT COST (GMP-1 + GMP-2)	**37,979,163**

Exhibit D2-2 GMP Summary

GMP-1 TOTAL		14,304,745	
GMP-2 WORK			
P1	Work Package 1 - Concrete Scope	3,522,913	Allen Concrete
P2	Work Package 2 - Mechanical Scope	3,700,000	Garney
P3	Work Package 3 - Yard Pipe Scope	2,400,000	Garney
P4	Work Package 4 - Sitework Scope	1,374,746	Woodruff
P5	Work Package 5 - Metal Building Scope	1,300,000	Holliday
P6	Work Package 6 - Painting & Coating Scope	412,898	Cypress
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	Furnish & Install Furnishings/Lab Equipment Allowance	NOT IN CONTRACT	
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6%	Construction Fee, 6%	1,340,061	
GMP-2 TOTAL		23,674,418	

TOTAL PROJECT COST (GMP-1 + GMP-2)	37,979,163

Exhibit D2-2

Section 1: Scope of Work Narratives

TABLE OF CONTENTS

I. REFERENCE DOCUMENTS

II. GENERAL NOTES

III. WORK PACKAGE 1 – CONCRETE SCOPE

IV. WORK PACKAGE 2 – MECHANICAL A SCOPE

V. WORK PACKAGE 3 – YARD PIPE SCOPE

VI. WORK PACKAGE 4 – SITEWORK SCOPE

VII. WORK PACKAGE 5 – METAL BUILDINGS SCOPE

VIII. WORK PACKAGE 6 – PAINTINGS & COATINGS SCOPE

IX. WORK PACKAGE 7 – I&C SCOPE

X. WORK PACKAGE 8 – ELECTRICAL SCOPE

I. REFERENCE DOCUMENTS

A. Southwest WRF Bid Drawings – Dated March 15, 2018 and March 26, 2018
B. Southwest WRF Bid Specifications – Dated March 2018
C. Addendum No. 1 through 3
D. Questions Log
E. Consensus Docs – Standard Subcontract Agreement
F. Attachment – Concrete Scope Drawings
G. Attachment – Mechanical Scope Drawings
H. Attachment – Yard Pipe Scope Drawings
I. Attachment - West Villages Bid Schedule
J. Attachment – Owner Direct Purchase Orders

II. GENERAL NOTES

1. Building permits will be obtained by the CM. Coordination and scheduling of building inspections will be by the Subcontractor.
2. Subcontractor shall provide professional engineering services for all shoring systems to be installed under this contract.
3. Notice to Proceed: Project started on March 9, 2018.
4. All pricing to remain firm through project duration.
5. Liquated Damages are $3,000 per day for the first thirty (30) calendar days beyond substantial completion and $6,000 per calendar day thereafter.
6. Reference the attached "Consensus Docs" for standard Subcontract Agreement language.
7. Subcontractor is permitted to have a construction trailer onsite, however, all costs associated with temporary sewer, holding tanks, or temporary water shall be the responsibility of the Subcontractor. This includes installation, maintenance, removal, and monthly fees. Temporary power for construction trailers can be provided for $350/month per single wide trailer plus installation costs.
8. Provide quality control (QC) personnel to perform daily inspections of work within each bid package. QC Inspectors shall fill out daily reports indicating work compliance with Contract Documents. Work which is not in conformance shall also be documented along with the remediation work performed to correct deficiencies. Reports shall be provided to the Construction Manager on a daily basis, and are a prerequisite to monthly payments.
9. Perform all layout for work performed under this contract.
10. Benchmarks are shown on the contract documents.
11. Site Access shall be provided around the perimeter of the jobsite. Additional access shall be the responsibility of subcontractor. Include all work required to build access roads, crane platforms, etc. needed to complete work.
12. Trades shall include temporary fall protection as required to complete their work safely.
13. Erosion control shall be the responsibility of all subcontractors.
14. In and under pipe shall be defined as pipe embedded in or under slabs and structures out to 10' outside of structure. Pipe shall terminate with a solid sleeve and restraints to connect both ends of sleeve.
15. Final cleanup shall be the responsibility of all subcontractors. Works areas shall be left free of debris and in a completed condition.
16. Subcontractors shall include protection of new facilities.
17. CMAR's safety plan is available for review. All subcontractors are required to meet the requirements of this plan.
18. All subcontracts shall include certified as-builts in accordance with Section 01720. PDF copies of as-builts shall be provided monthly prior to submission of pay requests.
19. Any MOT required shall be covered by the applicable subcontract.
20. Include all shims, etc. required to assure construction is level and plumb.
21. Coordination and scheduling of inspections with Garney, Kimley-Horn, and City of North Port.
22. Provide fuel containment for all fuel stored onsite.
23. Subcontractors are required to attend all coordination meetings. These will be held once a week at a minimum.
24. Each work package subcontractor shall provide a designated person to coordinate receipt of all deliveries.
25. Each work package shall be required to have a superintendent on site at all times while performing work.
26. All subcontractors are required to have a dedicated employee onsite at all times during construction, other than the superintendent, responsible for the QA/QC for subcontractor's work.

III. WORK PACKAGE 1 – CONCRETE SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as **Work Package 1 – Concrete**. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   i. Division 1 – General Requirements – As Applicable
   ii. Division 2 – Site Construction – As Applicable
   iii. Division 3 – Concrete – Complete
   iv. Division 5 – Metals – As Applicable
   v. Division 9 – Finishes – As Applicable
   vi. Division 11 – Equipment – As Applicable
   vii. Division 15 – Mechanical – As Applicable
   viii. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   i. General – The following notes apply to all structures.
      1. The intent is for the Subcontractor to install concrete work complete per the contract documents and as described herein.
      2. Subcontractor shall furnish and install all materials as needed for a complete installation. This includes, but is not limited to formwork, shoring, reinforcing steel, concrete materials, vapor barrier, concrete accessories, joints, patching, rubbing, and curing.
      3. Subcontractor shall finish concrete floors, walls, edges, and decks in accordance with the contract documents.
      4. Furnish and install housekeeping pads for electrical and equipment.
      5. Pre-pour checklist is required to be complete prior to each concrete pour. Checklist shall be approved by construction manager prior to pouring.
      6. Concrete walls shall be pointed and patched within 24 hours after form removal.
      7. Reinforcing installation shall be coordinated with equipment anchors, wall sleeves, and other embedded items to avoid conflicts.
      8. Subcontractor shall be responsible for all layout and grade checks from site control points provided by others. Include batter boards for use by other subcontractors.
      9. Subcontractor shall be responsible for all aspects of section 03810 – Leakage Testing of Hydraulic Structures. Any materials required for closure of structure and transfer of water shall be included. Water for testing will be available from a 2" well or from stormwater ponds. When leak testing is complete, water shall be transferred to stormwater ponds or to another structure for testing.
      10. Subcontractor is responsible for all concrete construction within structures indicated. Any omission of a specific scope item does not relieve Subcontractor of responsibility of said item.
      11. Installation of all embedded items is included. Below is a list of items that will be furnished by others, but installed by the Concrete Subcontractor. Subcontractor will be responsible for review of shop drawings as well as coordination with other contractors for delivery and installation.
          a. Mechanical sleeves, wall pipes, and floor pipes
          b. Embedded metals and anchor bolts

c. Metal door frames at the Headworks
d. Bollards within footprint of structures

12. Subcontractor shall indicate to Construction Manager when materials furnished by others are needed onsite. Subcontractor shall provide material requests in ample time to avoid schedule impacts. Reference construction schedule for expected lead times of major items. Any impacts due to delayed material requests by Subcontractor will not be cause for additional compensation.
13. Subcontractor shall be responsible for waxing threaded holes in wall pipes.
14. Subcontractor shall allow time for installation of embedded conduits prior to closing forms.
15. Coordination of all concrete testing. Any retesting will be at the expense of subcontractor.
16. Coordination with Structural, Civil, Mechanical, Electrical, and Instrumentation submittals and drawings is included.
10. The following work will be performed by others: mechanical work, coatings, and electrical. Coordination with all trades is required and included.
11. The CM will designate a concrete washout area. Subcontractor will be responsible for constructing and maintaining the area including disposal of concrete debris.
12. Subcontractor shall participate in completion of coordination drawings with other trades and make modifications to rebar and concrete as necessary.
13. Dumpsters and temporary restrooms shall be supplied by subcontractor.
14. Temporary water and power will be available at construction manager's trailer. Any other required locations shall be provided by subcontractor.
15. Subcontractor's employees that are involved in the placement of concrete shall be properly trained and experienced in the use of vibration equipment.
16. Correction of embedded pipes or sleeves that are placed out of level, out of plumb, and/or not two-holed shall be the responsibility of the subcontractor.

ii. <u>Headworks</u>

1. Construct Headworks and Odor Control Structures.
2. Construct equipment pads.
3. Coordinate with civil, mechanical, electrical, and instrumentation submittals and drawings.

iii. <u>MLE Tanks, IRML Pump Station, Digesters, and Digester Blowers</u>

1. Construct MLE Tanks, IRML Pump Station, Digester Tank, and Digester Blowers.
2. Construct equipment pads.
3. Coordinate with civil, mechanical, electrical, and instrumentation submittals and drawings.

iv. <u>RAS/WAS and Drain Pumps</u>

1. Construct RAS/WAS Wetwell, Drain Pump Station, and RAS/WAS Pump Station.
2. Construct equipment pads.
3. Coordinate with civil, mechanical, electrical, and instrumentation drawings.

v. <u>Miscellaneous Site Structures & Pads</u>

1. Construct Deep Injection Well pad and Monitoring Well Sumps/Pads.
2. Set Precast Scum Pump Station and construct associated pad.
3. Construct Septage Receiving Station.
4. Construct Reject Pump Station.

5. Construct Site Lift Station Valve Pad. Precast Manhole will be installed by others.
6. Construct Reject Effluent Meter.
7. Construct two (2) Generator Pads.
8. Coordinate with civil, mechanical, electrical, and instrumentation submittals and drawings.
9. Construct equipment pads for referenced structures.

vi. Concrete Work Performed by Others

1. Reject Tank
2. Secondary Clarifiers
3. Filters
4. Chlorine Contact & Effluent Pump Station
5. MLE Blower Building and Electrical Room
6. Chemical Storage/Feed Building and Electrical Room
7. Solids Building
8. Office/Control Building and Electrical Room
9. Concrete Pipe Supports
10. Concrete Sidewalk
11. Backflow Preventer Pads
12. Buried Valve Collars

vii. Alternates

1. Alternate A – Add concrete pipe supports for structures within this work package.

IV. WORK PACKAGE 2 – MECHANICAL SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as **Work Package 2 – Mechanical Scope**. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   - i. Division 1 – General Requirements – As Applicable
   - ii. Division 2 – Site Construction – As Applicable
   - iii. Division 3 – Concrete – As Applicable
   - iv. Division 5 – Metals – Complete
   - v. Division 9 – Finishes – As Applicable
   - vi. Division 11 – Equipment – Complete
   - vii. Division 13 – Special Construction – As Applicable
   - viii. Division 15 – Mechanical – Complete
   - ix. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   - i. **General** – The following notes apply to all structures.
     1. The intent is for the Mechanical subcontractor to furnish and install all above grade pipe systems, misc. metals, and process equipment as described herein.
     2. See Owner Direct Purchase Orders for items supplied by others. Subcontractor shall be responsible for unloading, handling, storage, and protection of Owner Direct Purchase equipment installed under this bid package.
     3. Misc. metals shall include, but not limited to handrail, grating, walkways, platforms, stairs, hatches, checker plate, embeds, anchors, and hardware as required for a complete system. All bollards for entire project are included (furnish and install).
     4. Piping systems shall include, but are not limited to pipe, valves, fittings, restraints, couplings, wall pipes, wall sleeves, adapters, saddles, metal supports, concrete supports, flange kits, and appurtenances as required for a complete system.
     5. Embedded metals and mechanical items will be furnished by this Subcontractor and installed by the Concrete Subcontractor. This subcontractor shall assist in setting, adjusting, and verifying placement of embedded items.
     6. In reference to field instrumentation to be installed under this contract, Subcontractor shall furnish and install all ancillary materials as needed for a complete installation. This includes, but is not limited to all supports, pipes, nipples, isolation valves, stands, racks, clamps, strut, and hardware. The I&C subcontractor will furnish the field instruments, sunshields, and surge arrestors. The Mechanical Subcontractor will be responsible for unloading, handling, storage and protection of field instruments and accessories.
     7. Coordination with Civil, Structural, Mechanical, Architectural, Electrical, and Instrumentation submittals and drawings is included.
     8. Yard pipe to be supplied under separate contract. Reference the Yard Pipe Scope Drawings for break points between the Yard Pipe Package and the Mechanical Package. This subcontractor shall include field coordination and verification of underslab pipe locations.
     9. The following work will be performed by others: concrete, field applied finish coatings, and electrical. Coordination with all trades is required and included.
     10. Omission of any specific scope item does not relieve subcontractor of responsibility of

said item.

11. Subcontractor shall furnish and install valve tags for all valves being installed under this contract.
12. Grout and grout fill for all items installed by the Subcontractor is included.
13. Install concrete foundations and stair landings for metal walkways, stairs, and platforms that are not supported by structures.
14. It is understood that the installation of flange coupling adapters, unions, flexible couplings, or transition fittings may be required, but not shown, and these will be furnished and installed by Subcontractor at no additional cost.
15. The location of pipe connection points is approximate. Flange locations may change upon approved equipment submittals. Subcontractor shall consider this in their bid and any connection location changes, within the equipment skids, shall not justify a change in contract amount. Piping elevations and locations shall be adjusted per process equipment requirements prior to release and installation.
16. Provide pipe drawings for review prior to material release.
17. Subcontractor shall indicate to Construction Manager when materials furnished by others are needed onsite. Reference construction schedule for anticipated lead times. Any impacts due to delayed material requests by Subcontractor will not be cause for additional compensation.
18. Pressure testing of all pipelines installed under this scope is included.
    a. Temporary plugs, caps, fittings or other materials as needed for pressure testing is included.
    b. Test pumps are included.
    c. Tapped flanges at all wall pipes shall be provided for structure leak testing.
19. All equipment is to be installed level and free from stress per equipment manufacturer's instructions.
    d. Furnish and install anchor bolts for all equipment installed under this work package.
    e. Pump leveling grout and grout fill of bases is included.
    f. All equipment and supports will be leveled on dual nuts and packed neatly with grout.
    g. Laser align pumps per manufacturer's instructions.
20. Furnish and install pump seal water piping, tubing, valves, fittings, and appurtenances required for any pumps that require seal water systems.
21. All strut, anchors, and hardware shall be 316SS unless otherwise noted.
22. Furnish and install safety, labeling, and equipment signage for all equipment installed under this contract.
23. Include all required lubricants for equipment storage, startup, and testing.
24. Include all touch up paint.
25. Include all escutcheon plates.
26. Provide grout and grout fill as required and shown on drawings.
27. Include all required coordination drawings.

ii. <u>Headworks</u>

1. Install all process equipment including gates, odor control system, mechanical screen, wash and press, and grit removal equipment.
2. Furnish and install misc. metals complete.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.
6. Furnish and install grout for headcell.

7. Furnish and install dumpster.

iii. MLE Tanks, IRML Pump Station, Digesters, and Digester Blowers

1. Install all process equipment including gates, mixers, mixer hoists, diffuser systems, IRML Pumps, Digester decant assembly, and blowers.
2. Furnish and install misc. metals complete.
3. Furnish and install all piping systems complete.
4. Install all field instrumentation.
5. Furnish and install hose bibs and wash hose stations complete.

iv. MLE Blowers

1. Install all process equipment including blowers and accessories.
2. Furnish and install all pipe, valves, fittings, metal pipe supports, concrete pipe supports, and appurtenances complete.
3. Install all field instrumentation.

v. RAS/WAS and Drain Pump Systems

1. Install all process equipment including RAS Pumps, WAS Pumps, Drain Pumps, and Gates.
2. Furnish and install misc. metals complete.
3. Furnish and install all pipe, valves, fittings, metal pipe supports, concrete pipe supports, and appurtenances complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.

vi. Secondary Clarifiers & Scum Pump Station

1. Install all process equipment including Clarifier Mechanisms, Clarifier Platforms/Walkways, and Scum Pumps.
2. Furnish and install misc. metals complete. The perimeter handrail around the clarifiers will be furnished and installed by the Prestressed Tank Subcontractor. All other misc. metals to be furnished and installed with the Mechanical Package.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.
6. Furnish and install grout for clarifiers.

vii. Chemical Storage and Feed Building

1. Install all process equipment including chemical tanks and metering pump skids.
2. Furnish and install misc. metals complete.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs, wash hose stations, and eyewashes complete. Eyewashes shall be furnished with flow switches and alarms as shown on drawing E-19.
5. Install all field instrumentation.

viii. Solids Building

1. Install all process equipment including centrifuge assembly, polymer tote, and polymer feed system.
2. Furnish and install misc. metals complete.
3. Design, furnish, and install the monorail crane including hoist, rail, and supports complete. Work includes all engineering and design for the hoist, monorail, support structure, and concrete foundations. Installation of the concrete foundations is

included.
4. Furnish and install all piping systems complete.
5. Furnish and install hose bibs, wash hose stations, and eyewashes complete. Eyewashes shall be furnished with flow switches and alarms as shown on drawing E-19.
6. Install all field instrumentation.

ix. Deep Injection and Monitoring Wells
1. The deep well subcontractor is under contract directly with the Owner. They are installing the wells up to the first flange shown on drawings M-8.2 and M-8.4. All other mechanical work required at the wells is included with the Mechanical Package.
2. Furnish and install misc. metals complete.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.

x. Reject Tank and Reject Pump Station
1. Install all process equipment including Reject Pumps.
2. Furnish and install misc. metals complete. The prestressed tank subcontractor is furnishing and installing the ladders, level indicators, and wall manholes for the Reject Tank. They are also furnishing pipe supports that will be mounted to the tank walls. Installation of the pipe supports is included with the Mechanical Package.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.

xi. Misc. Systems – Septage Receiving Station, Site Lift Station, Reject Effluent Meter
1. Install all process equipment including Septage Receiving Station and Submersible Pumps.
2. Furnish and install misc. metals complete.
3. Furnish and install all piping systems complete.
4. Furnish and install hose bibs and wash hose stations complete.
5. Install all field instrumentation.
6. Furnish and install dumpster at Septage Receiving Station.

xii. Pipe Flushing / Disinfection and Testing
1. Create and submit a detailed pipe disinfection and sampling plan.
2. Furnish and install all sample taps, nipples, isolation valves, corp. stops, tubing, and any other materials necessary for sample locations on pipe installed under this scope.
3. Pressure testing of piping is required and included in this scope. Include all special fittings, etc. required to accommodate pipe test.
4. Flush all piping installed under this scope. Any temporary pipe, fittings, valves, and appurtenances are included
5. Disinfect all PW piping (buried and above ground).
6. Provide testing lab and collection of BAC-T samples
7. Subcontractor assumes all responsibility for disinfection and sampling of newly installed pipelines on this project. Any costs related to failed test shall be the responsibility of Subcontractor.

xiii. Startup
1. Perform plant startup and testing for all systems noted above. Work includes coordination with relevant subs and vendors.

2. Fill structures with water for testing. Any materials required transfer of water shall be included. Water for testing will be available from a 2" well or from stormwater ponds.
3. Subcontractor shall provide complete startup plan 60 days prior to commencing any startup activities.
4. Provide all bypass or circulation pumps and piping to properly test and demonstrate plant operation.
5. Collection, crating, and turnover of ALL spare parts for the systems noted above is the responsibility of the Subcontractor.
6. Provide start-up labor and materials.

ix. Alternates

1. Alternate A – Add furnish and install of In/Under Pipe with encasement. Reference the Yard Pipe Scope Drawings for details.

V. WORK PACKAGE 3 – YARD PIPE SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as Work Package 3 – Yard Pipe. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   i. Division 1 – General Requirements – As Applicable
   ii. Division 2 – Site Construction – As Applicable
   iii. Division 3 – Concrete – As Applicable
   iv. Division 5 – Metals – As Applicable
   v. Division 9 – Finishes – As Applicable
   vi. Division 11 – Equipment – As Applicable
   vii. Division 15 – Mechanical – Complete
   viii. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   i. General – The following notes apply to all structures.
      1. The intent is for the Yard Pipe subcontractor to furnish and install all buried piping systems and concrete encasement complete as described herein.
      2. Furnish and install all underslab pipe and reinforced concrete encasement.
      3. Coordination with Civil, Mechanical, Electrical, and Instrumentation drawings and submittals is included.
      4. Electrical is by others.
      5. Field applied coatings is by others.
      6. Omission of any specific scope item does not relieve subcontractor of responsibility of said item.
      7. All excavations shall comply with the Contract Documents, OSHA, and the Trench Safety Act. Provide temporary shoring as necessary including design certification by a professional engineer.
      8. All pipe bedding shall be in accordance with the Contract Documents. Subcontractor shall furnish bedding material from offsite sources if onsite material does not meet the requirements for suitable bedding.
      9. In reference to all dewatering and bypass operations to be furnished and installed under this contract, Subcontractor shall furnish and install all materials as needed for a complete and functional system. This includes, but is not limited to all suction and discharge pipe systems, pumps, fuel, fuel tanks, temporary power, flow meters, and maintenance. Dewatering discharge can be routed to the stormwater ponds.
      10. In reference to all pipe systems to be furnished and installed under this contract, Subcontractor shall furnish and install all materials as needed for a complete system. This includes, but is not limited to all pipe, valves, fittings, restraints, couplings, adapters, saddles, and appurtenances.
      11. Subcontractor shall furnish and install valve tags/discs and associated concrete collars for

all valves being installed under this contract.

12. It is understood that the installation of flange coupling adapters, MJ sleeves, or transition fittings may be required, but not shown, and these will be furnished and installed by Subcontractor at no additional cost. Subcontractor shall furnish flange coupling adapters at all locations where ductile iron pipe terminates above grade.
13. The location of pipe connection points is approximate. Flange locations may change upon approved equipment submittals. Subcontractor shall consider this in their bid and any connection location changes, within the equipment skids, shall not justify a change in contract amount.
14. Provide pipe drawings for review prior to material release.
15. Pressure testing of all pipelines installed under this scope is included.
    a. Temporary plugs, caps, blind flanges, fittings or other materials as needed for pressure testing is included.
    b. Test pumps are included.
16. Install backfill up to top of subbase on roadway crossings.
17. Haul-off of all spoils shall be included.

ii. Surveying

1. Perform all surveying and layout for work performed under this bid package. This includes layout for all yard pipe, valves, stub-ups, and utility crossings.
2. Provide record drawings for all work performed by subcontractor. Drawings shall be certified by a Professional Land Surveyor.

iii. Yard Pipe

1. Furnish and install all yard piping as indicated on drawings. Reference the Yard Pipe Scope Drawings for details.
2. Furnish and install underslab pipe and reinforced concrete encasement.
3. Subcontractor will coordinate closely with electrician and other subcontractors to avoid conflicts with duct banks, storm piping, sanitary sewer, and other yard piping. At pipe and duct bank crossings subcontractor shall include cost to install pipe under duct bank and storm pipe and support duct bank and storm pipe as required.
4. Furnish and install all required line stops and wet taps (shown or not shown).
5. Furnish and install all required sample taps, chlorination points, backflow preventers, air release valves, clean outs, and fire hydrants.
6. Storm drain pipe/structures, Sanitary sewer system, Influent Force Main, and Water Main are by others except where noted (reference Yard Pipe Scope Drawings).
7. Furnish and install all incidental materials required for buried piping including but not limited to; pipeline markers, marker balls, tracer wire, polywrap, etc. Materials shall be installed in strict accordance with the contract documents.
    a. Perform pipe exploration / exploratory digging as necessary prior to ordering materials.
    b. Furnish and install underground valve boxes for all buried valves installed under this scope. Concrete collars, pads, valve extension stems, and ID brass discs are included.

iv. Dewatering

1. Furnish and install all dewatering systems as necessary for completion of the Scope of Work for each Bid Package. It is the Subcontractor's sole responsibility to investigate, engineer, install, and maintain a sufficient dewatering system to ensure the schedule is maintained.
2. Subcontractor is responsible for any required treatment of dewatering discharge prior to offsite disposal.
3. If Subcontractor elects to use diesel driven pumps, the Subcontractor will furnish all fuel tanks and fuel. If Subcontractor selects electric driven pumps then Subcontractor will be responsible for coordination with electrical utility to install temporary electric as well as all electrical hookup and consumption costs.

v. Pipe Flushing / Disinfection and Testing

1. Create and submit a detailed pipe testing, disinfection, and sampling plan.
2. Furnish and install all sample taps, nipples, isolation valves, corp. stops, tubing, and any other materials necessary for sample locations on pipe installed under this scope.
3. Pressure testing of piping is required and included in this scope. Include all special fittings, etc. required to accommodate pipe test.
4. Flush all piping installed under this scope. Any temporary pipe, pumps, fittings, valves, and appurtenances are included.
5. Provide testing lab and collection of BAC-T samples
6. Subcontractor assumes all responsibility for sampling of newly installed pipelines on this project. Any costs related to failed test shall be the responsibility of Subcontractor.

vi. Alternates

1. Alternate A – Deduct furnish and install of In/Under Pipe with reinforced concrete encasement. Reference "Yard Pipe Scope Drawings" for extents.

VI. WORK PACKAGE 4 – SITEWORK SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as **Work Package 4 – Sitework**. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   i. Division 1 – General Requirements – As Applicable
   ii. Division 2 – Site Construction – Complete
   iii. Division 3 – Concrete – As Applicable
   iv. Division 15 – Mechanical – As Applicable
   v. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   i. **General Items**
      1. Subcontractor is responsible for inspecting existing site conditions and performing exploratory digging prior to performing any excavations or installing materials.
      2. Subcontractor shall be responsible for cleaning its trucks before leaving the site to keep public roads clean and free of mud and concrete from the site.
      3. Sweep and clean pavement to maintain clean roadways as directed by the Construction Manager.
      4. Access roads shall remain accessible at all times. Any closures must be approved 48 hours in advance.
      5. Material escalation pricing to be included in Lump Sum. Price to be firm for duration of the project
      6. Multiple mobilizations will be required.
      7. Bidders are encouraged to consult Geotechnical Report for site soil conditions. In the event of a discrepancy between the specifications and the report the more stringent will govern.

   ii. **Surveying**
      1. Perform all surveying and layout for work performed under this bid package. This includes layout for all earth work, site concrete, paving, fencing, directional drill, etc.
      2. Provide record drawings for all work performed by subcontractor. Drawings shall be certified by a Professional Land Surveyor.

   iii. **Earthwork and Grading**
      1. Rough and final grading the site to 0.1' including all slopes, ponds, outfalls, ditches, swales, and berms as shown on the Civil drawings. Coordinate grade elevations with all drawings.
      2. Remove stockpiles of excess and/or unsuitable fill. Subcontractor is responsible for all associated costs with sorting, loading, hauling, and disposal. Sitework subcontractor should assume at least 1,000 CY of haul-off.
      3. Subcontractor is responsible for reviewing elevation and coordinates on drawings for discrepancies prior to proceeding with work. Discrepancies with elevations or

coordinates must be brought to the attention of the CM prior to starting work.

4. Re-install topsoil as required by the contract documents.
5. All earthwork for structures listed below is included in this work packages (structural excavation, dewatering, subgrade preparation, and backfilling). Excavated materials from structures shall be relocated and stockpiled away from the structure at locations designated by the CM.
    a. Headworks
    b. Septage Receiving Station
    c. Site Lift Station
    d. MLE Basins, Digesters, IRML Pump Station, and Digester Blowers
    e. RAS/WAS Pump Station
    f. RAS/WAS Wetwell and Drain Pump Station
    g. Scum Pump Station
    h. Deep Injection Well and Monitoring Wells
    i. Effluent Reject Meter
    j. Reject Pump Station
6. Earthwork for the metal buildings (Office Control Building, Blower/Electrical Building, Chemical/Electrical Building, and Solids Handling Building) is by others.
7. Furnish and install 12" of #57 stone under all slabs unless otherwise shown.
8. As structures are completed by the Concrete subcontractor, the Sitework subcontractor shall promptly backfill that structure. The Sitework subcontractor shall note that backfill operations will be scheduled on a structure by structure basis. Backfilling all or multiple structures will not occur at one time.
9. Maintain stockpiles with temporary seeding or other measures as required to comply with Best Management Practices.
10. Included is final grading of the entire site at the conclusion of the project. Fine grading along with any necessary handwork around structures, utilities, sidewalks, pavement, etc. is included.

iv. <u>Dewatering</u>

1. Provide dewatering for all work under this scope as required to perform the work.
2. Dewatering for all structural excavations is included. The Site Subcontractor is responsible for maintaining a dry, safe, and stable excavation for the other package contractors.
3. Refer to the project schedule for estimated dewatering durations. Dewatering shall be continuous until the structure is backfilled.
4. Subcontractor shall possess and maintain sufficient number of operational pumps onsite to sustain dewatering operations at all times.
5. Provide backup pumps as necessary to ensure dewatering operations are uninterrupted. Delay damages will be imposed if other package contractors are delayed due to a pump or dewatering system failure.
6. Pumps and dewatering systems shall be sufficiently sized to maintain a dry excavation during rain events. Provide berms, swales or other measure around excavations to keep storm water sheet flow from entering the excavation.
7. Obtain all required dewatering permits.
8. Subcontractor is responsible for design and construction of dewatering discharge plan. Provide all required discharge water testing in accordance with governing bodies.
9. Fuel or power for system operation is the responsibility of the Subcontractor. A

separate meter and account can be setup, but all costs and coordination associated with this are the responsibility of the Subcontractor

10. Dewatering for yard pipe installation is by others.

v. Asphalt Paving

1. Furnish and install stabilized sub-base and limerock base course as required by the Contract Documents. The sub-base and base course shall be installed early in the project to provide temporary access for all trades. Subcontractor shall assume that upper layer of limerock will have to be removed and replaced prior to paving.
2. Maintain temporary access roads for duration of project. Roads shall be inspected and repaired bi-weekly to prevent potholes and re-establish road grades.
3. Furnish and install asphalt paving. Subcontractor shall include three (3) mobilizations for asphalt paving in their bid.
4. Provide all traffic striping, parking lines, handicap symbols, traffic & handicap signage, and parking bumpers (wheel stops).
5. All pavement corrective work shall be provided at no additional cost.

vi. Site Concrete

1. Form, reinforce, place, and finish all sidewalks shown on the Contract Documents.
2. Include all joints, ramps, thickened edges, and detectable warning devices as required by drawing C-17.
3. All excavation, subgrade preparation, and backfill is included.
4. Protection of site concrete is included.

vii. Horizontal Directional Drilling

1. Furnish and install all pipe, fittings, and appurtenances required to install and tie-in the force main crossing at US-41 by directional drilling.
2. Subcontractor is responsible for inspecting existing site conditions and performing exploratory digging prior to performing any excavations or installing materials.
3. The scope consists of all work between the 12" gate valve near station 11+75 as shown on drawing C-22, and the tie-in with the existing 12" force main.
4. Coordination with FDOT and City of North Port.
5. MOT for all work.
6. Furnish and install air release valve and vault.
7. Hydrostatic testing and mandrel testing are included.
8. Furnish and install a PE designed shoring system for the exit pit.
9. Restore grades to original condition and repair grassing per FDOT requirements and the Contract Documents.

viii. Chain Link Fence and Gate

1. Furnish and install 6' chain link fence with barbed wire.
2. Furnish and install the motorized roll gate.
3. Furnish and install dual gate operator, controls, key pads, detector loops, etc. as required for a complete and operational installation. Reference the Surveillance drawings for details.
4. Gate operator power and communications cable will be furnished and installed by the site electrician, up to the gate operator. All other conduit and wire at the gate area, for detector loops, sensors, key pads, etc. is to be provided by the Site

Subcontractor.

ix. Sodding
1. Furnish and install all sodding inside the perimeter road per the Contract Documents.
2. Repair damaged sod at slopes, swales, and ponds outside the perimeter road.
3. Subcontractor is responsible for all stabilization measures, both temporary and permanent.
4. Provide topsoil, final grading, fertilization, and other preparations prior to sodding.
5. All sod shall be rolled.
6. Subcontractor is responsible for the establishment and maintenance of all vegetation within property limits for the duration of the project, including watering and mowing as outlined in the contract documents.
7. Include 1 mowing of all grassed areas at final completion.

x. Landscaping
1. Furnish and install all trees, shrubs, ground cover, and mulch as required by the contract documents.
2. Furnish and install littoral shelf around ponds B-02 and B-03.
3. Maintain landscaping until final completion and acceptance by Owner/Engineer.
4. Design, furnish, and install Air Diffusers in ponds B-01 and B-03. The drawings show fountains in these ponds, but the Owner would prefer diffusers. Include all electrical work beyond pull boxes that will be installed by electricians near the edge of the ponds.
5. Warrant landscaping per contract documents.

xi. Site Restoration
1. Remove stone from all staging areas and dispose of off-site.
2. Re-grade and seed all disturbed areas of site.
3. Remove all silt fence and other temporary erosion protection measures.
4. Remove built-up sediment from all stormwater ponds and dispose of offsite.

xii. Alternates
1. Alternate A – Deduct Fencing
2. Alternate B – Deduct Directional Drilling

VII. WORK PACKAGE 5 – METAL BUILDINGS SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as Work Package 5 – Buildings. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   i. Division 1 – General Requirement – As Applicable
   ii. Division 2 – Site Construction – As Applicable
   iii. Division 3 – Concrete – As Applicable
   iv. Division 5 – Metals – As Applicable
   v. Division 09 – Finishes – As Applicable
   vi. Division 15 – Mechanical – As Applicable
   vii. Specification Section 15400 – Plumbing – Complete
   viii. Specification Section 15400 – Heating, Ventilating, and Air Conditioning (HVAC) –Complete
   ix. Division 16 – Electrical – As Applicable

C. Reference Documents
   i. Construction Drawings – Architectural Index, Sheets A-1.0 through A-4.3, Plumbing Index, Sheets P-1 through P-5, HVAC Index, Sheets H-1 through H-8.
   ii. **The Architectural Project Specification and Construction Drawings were developed separately by the Project Architect. The Building Subcontractor shall note that certain drawings and specifications from the WWTP Project Manual will be utilized in this scope of work. The entire set of Project Documents are included in this Subcontract.**
   iii. In the event of a discrepancy between the Architectural Specifications and Drawings and the WWTP Technical Specifications and Drawings, the more stringent will govern.

D. Scope includes, but is not limited to:
   i. General Items
      1. Perform all layout for work performed under this contract. This includes layout for building corners, elevation control, etc.
      2. Control Points are shown on contract drawings.
      3. Bidders are encouraged to consult Geotechnical Reports in the Technical Specifications for site soil conditions. In the event of a discrepancy between the specifications and the report, the more stringent will govern.
      4. The existing main plant road shall remain accessible at all times. Any closures must be approved 48 hours in advance.
      5. Material escalation pricing to be included in Lump Sum. Price to be firm for duration of the project
      6. The Subcontractor should specifically take note of the project schedule. Multiple mobilizations may be required.

   ii. Doors at Headworks
      1. Furnish and install two (2) man-doors and one (1) overhead doors at the Headworks Structure. Doors and hardware shall match those installed at the metal buildings described below. All frames, doors, door hardware, push button operators, panic hardware, etc. are included for a complete installation.

iii. Construction of Operations Building, Blower/Electrical Building, Chemical/Electrical Building, and Solids Handling Building Complete as shown on drawings.

1. It is expressly understood that the Architectural Drawings prepared by Architecture Studio dated 3/15/2018 are a general representation of the construction work and do not account for all aspects of construction for the Operations, Blower/Electrical, Chemical/Electrical and Solids Handling Buildings at the Southwest Wastewater Reclamation Facility. While the drawings indicate the general construction requirements; the materials, layout, dimensions, finishes, details, specifications, etc. for all aspects of construction are not included. It shall be the responsibility of the SELECTED CONTRACTOR to ensure that the buildings are constructed in the best manner of industry, trade practices, and building codes, and to maintain that the general intent of the Contract Documents are satisfied. The selected contractor shall ensure that materials and methods of construction are adequate for their intended purposes.
2. Bidding contractors shall submit with their proposal a list of materials which have been included in their price, as well as all clarifications, exclusions and assumptions used in developing the price. Pricing shall be provided to Garney Construction as a Guaranteed Not-To-Exceed price to construct the buildings as defined in the contract documents, and in conjunction with the materials and clarifications described in the bidding contractor's proposal. Additional costs for upgrades or additional features will be handled as a change order to the contract. Omissions on the part of the selected contractor shall be furnished at no additional cost.
3. The intent is for the Subcontractor to install complete buildings with the exception of electrical work, process equipment, and process piping which will be furnished and installed by others as noted below.
4. Furnish and install concrete foundation, footers, slab-on-grade, equipment pads, and door aprons including but not limited to; subgrade preparation, vapor barriers, formwork, concrete, reinforcing, expansion joints, control joints, curing, rubbing, patching, hardening, sealing, and finishing.
5. Furnish and install all Pre-Engineered Metal Building Structures. Pre-Engineered Metal Building engineering & fabrication to be provided by a State of Florida approved metal building company and erected by a state approved contractor. Signed and sealed shop drawings are included in this scope of work.
6. Furnish and install all masonry including, but not limited to block, reinforcing, grout, mortar, openings, lintels, door frames, tooling, and touch-up as required for a complete system.
7. Furnish and install all exterior finishes including, but not limited to wall panels, wall insulation, roofing, roof insulation, soffits, gutters, downspouts, splash blocks, doors, and windows as required for a complete system.
8. Furnish and install all interior building finishes including, but not limited to drywall, framing, insulation, doors, ceilings, ceramic tile, VCT, floor base, lockers, benches, caseworks, countertops, and trim as required for a complete system.
9. Furnish and install shop and field applied coatings (prime and finish coats) for all items furnished and installed in this bid package. Work includes sealer/hardener for all exposed concrete floors.
10. All mechanical and electrical penetrations are included. Coordination with other trades will be required.
11. Furnish and Install a complete plumbing system with all buried piping, above grade piping, supports, fixtures, equipment, and appurtenances for the Operations Building per the contract documents. Include all piping within ten feet of the building foundation.

Piping beyond ten feet will be installed by others. If drain and supply yard piping is complete at the time the building in/under piping is being installed, the plumber shall be responsible for tying into the yard piping that is provided by others. If no connection points are available, the plumber is required to cap and mark the location of each stub out.

12. Design, furnish, and install all fire protection systems as required by the contract documents. The fire alarm system will be provided by others.
13. Furnish and install all fire extinguishers complete.
14. Furnish and install a complete HVAC system for each Building. Include exhaust fan control systems shown on drawing E-19. Include conduit and wiring between condensing units and air handlers as well as conduit and wiring for all HVAC control systems and thermostats. Testing and balancing is included.
15. Perform excavation, subgrade preparation, and backfilling of footings, foundations, slabs on grade, aprons, and equipment pads.
16. Furnish and install dewatering systems as necessary.
17. Furnish and install select fill or crushed stone for all footings, foundations, slabs, aprons, and equipment pads.
18. Finish grade around the building is included. Building Subcontractor shall include final clean up and fine grading around the building in preparation for grassing.
19. Provide termite and subterranean insect protection for the building as specified.
20. Final cleaning of building and punch list completion is included.
21. The process equipment and piping listed below will be furnished and installed by others. All other equipment and piping is by this Subcontractor. Subcontractor shall be responsible for reviewing equipment shop drawings to coordinate the size of equipment pads and location of anchor bolts.
    a. MLE Blowers and associated air piping at the Blower/Electrical Building.
    b. Chemical Tanks, Chemical Metering Pump Skids and associated chemical piping at the Chemical/Electrical Building.
    c. Centrifuge Assembly, Polymer Tote, Polymer Feed System, and Monorail at the Solids Handling Building. Note that all underslab piping will be furnished and installed by the Metal Building Subcontractor.
    d. Emergency Shower/Eyewash and associated PW piping at the Chemical and Solids Buildings.
    e. Electrical Gear (Switchgear, Main Breakers, ATS, MCC, VFD, PCP, UPS, LCP, transformers, disconnects, panelboards, and lighting contactors)
    f. Network communication equipment at the Operations Building.
22. Clearing, grubbing, paving, sidewalk, landscaping, and sodding are provided by others.
23. Electrical work is by others including cable, conduit, equipment, lighting, grounding, lightning protection, electrical gear, and devices. Coordination with the electrical subcontractor is included.

VIII. WORK PACKAGE 6 – PAINTING AND COATINGS SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as **Work Package 6 – Paintings and Coatings**. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   i. Division 1 – General Requirements – As Applicable
   ii. Division 3 – Concrete – As Applicable
   iii. Division 5 – Metals – As Applicable
   iv. Division 9 – Finishes – Complete
   v. Division 11 – Equipment – As Applicable
   vi. Division 13 – Special Construction – As Applicable
   vii. Division 15 – Mechanical – As Applicable
   viii. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   i. **General**
      1. The intent is for the subcontractor to furnish and install all field applied coatings complete in accordance with the contract documents as described herein.
      2. All surface preparation as required to meet manufacturer's recommendations or the Contract Documents, whichever is more stringent.
      3. Coatings shall be coordinated with shop applied primers. Subcontractor shall not coat surfaces without verifying that shop primers are compatible with field applied coatings.
      4. Coatings for architectural finishes at the pre-engineered buildings (Office/Control Building, Blower/Electrical Building, Chemical/Electrical Building, and Solids Handling Building) are by others. Coatings for all process equipment, piping, labeling, bollards, misc. metals, and similar items at these buildings is included.
      5. Concrete coatings at prestressed tanks (Secondary Clarifiers and Reject Tank) are by others. Coatings for all other items at the prestressed tanks such as equipment, metals, piping, labeling, etc. is included.
      6. Fill bug holes in concrete and masonry as recommended by coating manufacturer.
      7. Furnish and install all sealants and caulking as required by the Contract Documents.
      8. Provide all scaffolding, lifts, shoring, and ladders as needed to safely access work areas.
      9. Environmental controls are included.
      10. Subcontractor shall include touch-up of all coatings, including those damaged by others during the normal course of construction.
      11. A pre-paint checklist must be filled out a day prior to commencing coatings. Humidity and temperature readings shall be taken and must be within manufacturer tolerances prior to beginning coating. If weather conditions change it is the responsibility of the subcontractor to re-evaluate and ensure the conditions still meet those as recommended by the manufacturer. If coatings must be applied at night then the Subcontractor shall coordinate with the Construction Manager and inspectors.
      12. All clean up shall be performed according to specifications. Painting Contractor is responsible for disposal of trash.

13. Provide all testing required by the manufacturer or specifications.
14. Any material that is spilled shall be cleaned up and contaminations shall be remediated. Leftover materials shall be removed from the jobsite prior to project completion.

ii. Alternates

1. Alternate A – Deduct painting of secondary clarifier mechanisms.

IX. WORK PACKAGE 7 – I&C SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as Work Package 7 – I&C. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections Included:
   i. Division 1 – General Requirements – As Applicable
   ii. Division 2 – Site Construction – As Applicable
   iii. Division 3 – Concrete – As Applicable
   iv. Division 5 – Metals – As Applicable
   v. Division 9 – Finishes – As Applicable
   vi. Division 13 – Process Instrumentation and Control System – Complete
   vii. Division 15 – Mechanical – As Applicable
   viii. Division 16 – Electrical – As Applicable

C. Scope includes, but is not limited to:
   i. General
      1. Provide all labor, equipment, and material required for a complete Instrumentation and Controls Package per the contract documents.
      2. Furnish, terminate, and calibrate all field instruments and accessories. Reference the Electrical and I&C Scope Drawings for field instruments to be furnished by others. Field instruments shall be provided with surge arrestors, powder coated sunshields, calibration devices, isolation valves, diaphragm seals, and mounting hardware as required for a complete installation. Field instruments will be mounted by others.
      3. Furnish surge arrestors and sun shields for all field instruments supplied by others.
      4. Furnish, terminate, program, and test the following control panels: PCP-1, PCP-2, Site Lift Station control panel, Scum Pump Station control panel. Control panels will be mounted and by the electrician.
      5. Complete all programming and graphics prior to delivery of control panels.
      6. Furnish, terminate, and test all Local Control Panels (LCP) and Eye Wash Alarm Panels. Reference diagrams on drawing E-19 for panel details.
      7. Furnish and install all network communications equipment and cabling.
      8. Furnish and install all software, work stations, servers, monitors, laptops, printers, etc. as required by the Division 13 specifications and shown on the contract drawings.
      9. Furnish and terminate all fiber optic cable and fiber patch panels. Include terminations in panels supplied by others. The electrician will pull fiber optic cables.
      10. The Fire Alarm System and Surveillance System will be supplied by the Electrician. Coordination for I/O interface with the communications network and control panels is included.
      11. See Owner Direct Purchase Orders for process equipment furnished by others.
      12. Coordination with other trades is included.
      13. Coordination with the City of North Port and their designated representatives is included.
      14. Coordination with equipment vendors as required to provide a complete and operable control system.

15. All testing and training required by the contract documents.
16. Provide I/O list.
17. Perform point to point check out and terminations.
18. Review of equipment submittals is included to coordinate controls. I&C Subcontractor will be supplied equipment submittals, and will be required to review and return with comments within 14 calendar days.
19. Subcontractor's personnel shall be onsite for equipment start-up and testing.

X. WORK PACKAGE 8 – ELECTRICAL SCOPE

A. Provide the supervision, labor, material and equipment necessary to perform the Scope of Work generally described as **Work Package 8 – Electrical**. The Scope of Work is to be provided complete as described in the referenced Bid Documents and as further detailed herein.

B. Specification Sections included:
   - i. Division 1 – General Requirements – As Applicable
   - ii. Division 2 – Site Construction – As Applicable
   - iii. Division 3 – Concrete – As Applicable
   - iv. Division 5 – Metals – As Applicable
   - v. Division 9 – Finishes – As Applicable
   - vi. Division 13 – As Applicable
   - vii. Division 15 – Mechanical – As Applicable
   - viii. Division 16 – Electrical – Complete

C. Scope includes, but is not limited to:
   - i. **General**
     1. Perform all work and supply all materials required for a complete electrical installation per the contract documents.
     2. Furnish and install conduit, cable, and equipment to hookup temporary power for up to five site trailers with 100A service each, two wells with 20A service each, and five site connections for spider boxes with 50A service each. Remove all temporary power once project is complete. Coordinate with utility company to establish temporary power onsite.
     3. Furnish and install temporary lighting at all enclosed structures. Temporary lighting shall be maintained by the Electrical subcontractor until permanent lighting is installed.
     4.
     5. Furnish and install all ductbanks, pull boxes, and power manholes complete including excavation, dewatering, bedding, concrete, reinforcing, backfill, compaction, and waste removal. Subcontractor will coordinate closely with other trades to avoid conflicts between duct banks and other utilities. At pipe and duct bank crossings, subcontractor shall include cost to install duct bank under pipe and to support the pipe as required.
     6. Furnish, install, and test sump pumps and discharge piping for all power manholes.
     7. Furnish and install all conduit and cabling complete for the entire project. Terminate, test, and label all cabling.
     8. Furnish and install all interior and exterior lighting complete including mounting hardware, light poles, concrete foundations, grounding, design calculations, and spare bulbs/ballasts.
     9. Furnish and install HVAC motor starters.
     10. Furnish and install low voltage wiring for HVAC controls and thermostats.
     11. Furnish and install lightning protection system complete.
     12. Furnish and install grounding and bonding system complete. Install grounding at all motors per detail 4/E-54.
     13. Furnish and install fire alarm system complete.
     14. Furnish and install surveillance system complete.

15. Furnish and install WIFI access point towers complete including tower, concrete foundation, tower transceivers, interior radio transceivers, cables, lightning protection and grounding system.
16. Furnish and install equipment racks and transmitter stands for all electrical panels, field instruments, and other electrical devices in accordance with the contract documents. Support systems shall be submitted with signed and sealed wind load calculations from a structural engineer licensed in the State of Florida. Install concrete footings for support systems when installed outside of a structure.
17. Reference Owner Direct Purchase Orders for electrical equipment furnished by the Owner and installed under this work package. Subcontractor shall be responsible for unloading, handling, storage, and protection of Owner Direct Purchase equipment installed under this bid package.
    a. The electrical gear package will be furnished by Schneider, but can be purchased through any electrical supply house that will agree to the terms and conditions of the Owner Direct Purchase Order. Graybar is the only supplier that has agreed to the terms so far.
    b. Subcontractors can leverage the electrical gear package with suppliers for bidding purposes, however the cost of the gear will be removed from subcontractor's proposal after award, and issued directly from the Owner to the electrical supply house that was chosen by the selected subcontractor.
18. Fiber optic cable and field instruments will be furnished by others and installed by the Electrical subcontractor.
19. Perform all surveying and layout for work performed under this bid package. This includes layout for all duct banks, manholes, pull boxes, light poles, conduit stub-ups, wall/deck penetrations.
20. Provide record drawings for all work performed. Drawings shall be certified by a Professional Land Surveyor.
21. Furnish and install safety, labeling, and equipment signage for all equipment installed under this contract.
22. Provide point-to-point diagrams for all power and control wire terminations. Coordinate diagram with equipment and control submittals.
23. All field testing required by the contract documents including testing of electrical equipment furnished by others.
24. Furnish fuel for generator testing and top-off after testing is complete.
25. Grouting of electrical racks and support systems.
26. Coordinate with electrical utility for temporary and permanent power.
27. Coordination with other trades is included.
28. Coring and sawcutting concrete as required for electrical work.
29. PVC conduits shall not extend above grade or finished floor unless approved in writing.
30. Megger test all motors within three days of delivery and after motors are permanently installed.
31. Temporarily power motors, motorized valves, and panels for long term storage.

END OF SECTION

Exhibit D2-2

Section 2: Baseline Documents

Section 2: Baseline Documents

The following documents were used to develop GMP-2.

SPECIFICATIONS

SECTION	DESCRIPTION	DATED
DIVISION 01 – GENERAL		
01050	Field Engineering and Surveying	20-Mar-18
01090	Reference Standards	20-Mar-18
01110	Summary of Work	20-Mar-18
01150	Measurement and Payment	20-Mar-18
01300	Submittals	20-Mar-18
01301	Special Conditions	20-Mar-18
01310	Construction Progress Schedule	20-Mar-18
01370	Schedule of Values	20-Mar-18
01380	Construction Photographs	20-Mar-18
01510	Temporary and Permanent Utilities	20-Mar-18
01570	Traffic Regulation	20-Mar-18
01600	Material and Equipment	20-Mar-18
01620	Storage and Protection	20-Mar-18
01701	Manufacturers Field Services	20-Mar-18
01710	Cleaning	20-Mar-18
01720	Project Record Documents	20-Mar-18
01730	Operation and Maintenance Data	20-Mar-18
01750	System Start-Up	20-Mar-18
DIVISION 02 – SITE CONSTRUCTION		
02100	Site Preparation	20-Mar-18
02240	Dewatering	20-Mar-18
02276	Temporary Erosion and Sediment Control	20-Mar-18
02310	Finish Grading	20-Mar-18
02315	Excavation and Fill	20-Mar-18
02320	Trenching Bedding and Backfilling	20-Mar-18
02485	Seeding and Sodding	20-Mar-18
02619	Horizontal Directional Drilling	20-Mar-18
DIVISION 03 - CONCRETE		
03110	Concrete Forming	20-Mar-18
03150	Concrete Accessories	20-Mar-18
03200	Concrete Reinforcing	20-Mar-18
03300	Cast In Place Concrete	20-Mar-18
03620	Non-Shrink Grouting	20-Mar-18
03810	Leakage Testing of hydraulic Structures	20-Mar-18

DIVISION 05 - METALS		
05500	Metal Fabrication	20-Mar-18
05520	Railings	20-Mar-18
DIVISION 09 - FINISHES		
09865	Surface Preparation and Shop Prime Painting	20-Mar-18
09900	Painting and Coatings	20-Mar-18
09970	Surface Protection Spray System	20-Mar-18
DIVISION 11 - EQUIPMENT		
11130	Biological Odor Control System	20-Mar-18
11200	Screenings Washer	20-Mar-18
11201	Grit Removal Equipment	20-Mar-18
11203	Mechanical Fine Screens	20-Mar-18
11204	Sluiceway (U-Trough)	20-Mar-18
11300	Sodium Hypochlorite Storage System	20-Mar-18
11301	Chemical Metering Pumps and Skid Systems	20-Mar-18
11400	Secondary Clarifier Equipment	20-Mar-18
11401	Screw Centrifugal Pumps	20-Mar-18
11402	Submersible Chopper Pumps	20-Mar-18
11500	Aeration Treatment Equipment – Fine Bubble Diffusers	20-Mar-18
11501	High Speed Turbo Blowers	20-Mar-18
11502	Anoxic Basin Mixers	20-Mar-18
11503	Horizontal Dry Pit Pumps	20-Mar-18
11550	Aeration Treatment Equipment – Coarse Bubble Diffusers	20-Mar-18
11551	Positive Displacement Blowers	20-Mar-18
11552	Decant System	20-Mar-18
11600	Gravity Filter System	20-Mar-18
11601	Centrifugal Vertical Lineshaft Pumps	20-Mar-18
11700	Centrifuge Package	20-Mar-18
11800	Fabricated Gates	20-Mar-18
11900	Submersible Pumps	20-Mar-18
DIVISION 13 - PROCESS INSTRUMENTATION AND CONTROL SYSTEM		
13300	General Requirements	20-Mar-18
13310	Field Instruments	20-Mar-18
13315	Control Panels	20-Mar-18
13320	HMI Subsystem	20-Mar-18
13321	HMI Programming	20-Mar-18
13325	PLC Subsystem	20-Mar-18
13326	PLC Programming	20-Mar-18
13350	Training	20-Mar-18
13360	Fiber Optic Network	20-Mar-18
DIVISION 15 - MECHANICAL		
15050	Pipe Systems – General	20-Mar-18

15050-A	Cement-Motor-Lined Ductile Iron Pipe and Fittings Data Sheet	20-Mar-18
15050-B	Ceramic Epoxy-Lined Ductile Iron Pipe and Fittings Data Sheet	20-Mar-18
15050-C	Carbon Steel Pipe and Fittings Data Sheet	20-Mar-18
15050-D	Stainless Steel Pipe and Fittings Data Sheet	20-Mar-18
15050-E	Polyvinyl Chloride (PVC) Pipe and Fittings Data Sheet	20-Mar-18
15050-F	Chlorinated Polyvinyl Chloride (CPVC) Pipe and Fittings Data Sheet	20-Mar-18
15050-G	High Density Polyethylene (HDPE) Pipe and Fittings Data Sheet	20-Mar-18
15060	Process Piping Specialties	20-Mar-18
15061	Process Piping Leakage Testing	20-Mar-18
15094	Pipe Hangers and Supports	20-Mar-18
15110	Valves and Operators	20-Mar-18
15400	Plumbing	20-Mar-18
15800	Heating, Ventilating, and Air Conditioning	20-Mar-18
DIVISION 16 - ELECTRICAL		
16050	Electrical – General Provisions	20-Mar-18
16107	Switchboards - Low Voltage Group Mounted Feeders	20-Mar-18
16108	Miscellaneous Equipment	20-Mar-18
16110	Raceways and Fittings	20-Mar-18
16120	Wires and Cables	20-Mar-18
16150	Motors	20-Mar-18
16160	Panelboards	20-Mar-18
16216	Diesel Engine Driven Generator	20-Mar-18
16265	Static Uninterruptible Power Supply – Three Phase (15kVA)	20-Mar-18
16370	Variable Frequency Drives	20-Mar-18
16380	Motor Control Centers, Variable Frequency Drives and Fiber Optic Cable Contractor Requirements	20-Mar-18
16402	Underground Systems	20-Mar-18
16450	Grounding Systems	20-Mar-18
16500	Lighting System	20-Mar-18
16670	Lighting Protection System	20-Mar-18
16721	Fire Alarm System	20-Mar-18
16800	Surveillance System	20-Mar-18
16921	480-Volt Motor Control Centers	20-Mar-18

DRAWINGS

DWG.	DESCRIPTION	DATED
GENERAL		
G-1	TITLE SHEET	15-Mar-18
G-2	SHEET INDEX	15-Mar-18
G-3	GENERAL NOTES	15-Mar-18
G-4	GENERAL LEGEND & ABBREVIATIONS	15-Mar-18
G-5	LOCATION MAP	15-Mar-18
G-6	EXISTING CONDITIONS	15-Mar-18
G-7	PROCESS FLOW DIAGRAM	15-Mar-18
G-8	HYDRAULIC PROFILE	15-Mar-18
CIVIL		
C-1	OVERALL SITE PLAN	15-Mar-18
C-2	HORIZONTAL CONTROL PLAN	15-Mar-18
C-3	MASTER YARD PIPING PLAN	15-Mar-18
C-4A	YARD PIPING PLAN NORTH	15-Mar-18
C-4B	YARD PIPING PLAN SOUTH	15-Mar-18
C-5	SIDEWALK & WALKWAY PLAN	15-Mar-18
C-6	MASTER DRAINAGE & KEY PLAN	15-Mar-18
C-7	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-8	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-9	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-10	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-11	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-12	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-13	PAVING GRADING AND DRAINAGE PLAN	15-Mar-18
C-14	GRADING SECTIONS	15-Mar-18
C-15	GRADING SECTIONS	15-Mar-18
C-16	GRADING DETAILS	15-Mar-18
C-17	ROADWAY SECTIONS AND GENERAL DETAILS	15-Mar-18
C-18	BEST MANAGEMENT PRACTICES PLAN	15-Mar-18
C-19	BEST MANAGEMENT PRACTICES DETAILS	15-Mar-18
C-20	STRIPING AND SIGNAGE PLAN	15-Mar-18
C-21	MASTER UTILITY PLAN	15-Mar-18
C-22	FORCE MAIN CROSSING PLAN	15-Mar-18
C-23	UTILITY DETAILS	15-Mar-18
C-24	UTILITY DETAILS	15-Mar-18
C-25	UTILITY DETAILS	15-Mar-18
LANDSCAPING		
L-01	LANDSCAPE PLAN	15-Mar-18

L-02	LANDSCAPE NOTES & DETAILS	15-Mar-18
L-03	LANDSCAPE NOTES & DETAILS	15-Mar-18
ARCHITECTURAL		
A-1.0	FOUNDATION PLAN CONTROL BUILDING	15-Mar-18
A-1.1	LIFE SAFETY PLAN / GEN. INFO. CONTROL BUILDING	15-Mar-18
A-1.2	PROPOSED FLOOR PLAN CONTROL BUILDING	15-Mar-18
A-1.3	EXTERIOR ELEVATIONS CONTROL BUILDING	15-Mar-18
A-1.4	SECTIONS & DETAILS CONTROL BUILDING	15-Mar-18
A-1.5	SECTIONS/DETAILS & ROOF PLAN CONTROL BUILDING	15-Mar-18
A-2.0	FOUNDATION PLAN BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-2.1	PROPOSED FLOOR PLAN BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-2.2	EXTERIOR ELEVATIONS BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-2.3	SECTIONS & DETAILS BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-2.4	SECTIONS & DETAILS BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-2.5	PROPOSED ROOF PLAN BLOWER / ELECTRICAL BUILDING	15-Mar-18
A-3.0	FOUNDATION PLAN CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-3.1	PROPOSED FLOOR PLAN CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-3.2	EXTERIOR ELEVATIONS CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-3.3	SECTIONS & DETAILS CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-3.4	SECTIONS & DETAILS CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-3.5	PROPOSED ROOF PLAN CHEMICAL / ELECTRICAL BUILDING	15-Mar-18
A-4.0	FOUNDATION PLAN SOLID HANDLING BUILDING	15-Mar-18
A-4.1	PROPOSED FLOOR PLAN SOLID HANDLING BUILDING	15-Mar-18
A-4.2	EXTERIOR ELEVATIONS SOLID HANDLING BUILDING	15-Mar-18
A-4.3	SECTIONS & DETAILS SOLID HANDLING BUILDING	15-Mar-18
HEATING, VENTILATION, AND AIR CONDITIONING		
H-1	HVAC LEGEND, NOTES & DETAILS	26-Mar-18
H-2	HVAC SCHEDULES	26-Mar-18
H-3	HVAC SCHEDULES & DETAILS	26-Mar-18
H-4	HVAC DETAILS	26-Mar-18
H-5	HVAC SPECIFICATIONS	26-Mar-18
H-6	MLE BLOWER BUILDING/ELECTRICAL ROOM NO. 1 HVAC PLAN	26-Mar-18
H-7	CHEMICAL BUILDING/ELECTRICAL ROOM NO. 2 HVAC PLAN	26-Mar-18
H-8	CONTROL BUILDING HVAC PLAN	26-Mar-18
PLUMBING		
P-1	PLUMBING GEN. NOTES, LEGENDS & SCHEDULES	26-Mar-18
P-2	PLUMBING DETAILS	26-Mar-18
P-3	DOMESTIC WATER PLUMBING PLANS	26-Mar-18
P-4	SANITARY & VENT PLUMBING PLANS	26-Mar-18
P-5	PLUMBING SPECIFICATIONS	26-Mar-18
STRUCTURAL		
S-0.1	GENERAL NOTES 1	15-Mar-18
S-0.2	GENERAL NOTES 2	15-Mar-18

S-0.3	GENERAL NOTES 3	15-Mar-18
S-1.1	HEADWORKS UPPER PLAN	15-Mar-18
S-1.2	HEADWORKS FOUNDATION PLAN	15-Mar-18
S-1.3	HEADWORKS LOWER PLAN	15-Mar-18
S-1.4	HEADWORKS UPPER SLAB PLAN	15-Mar-18
S-1.5	HEADWORKS GRATING AND WALKWAY PLAN	15-Mar-18
S-1.6	HEADWORKS STRUCTURE SECTIONS 1	15-Mar-18
S-1.7	HEADWORKS STRUCTURE SECTIONS 2	15-Mar-18
S-1.8	HEADWORKS SECTION	15-Mar-18
S-1.9	HEADWORKS DETAILS 1	15-Mar-18
S-2.1	MLE TANK TOP PLAN	15-Mar-18
S-2.2	MLE TANK FOUNDATION PLAN	15-Mar-18
S-2.3	MLE TANK GRATING, CATWALK AND WALKWAY PLAN	15-Mar-18
S-2.4	MLE TANK STRUCTURAL SECTIONS	15-Mar-18
S-2.5	IRML PUMP STATION PLAN AND SECTION	15-Mar-18
S-3.1	DIGESTER TANK PLANS	15-Mar-18
S-3.2	DIGESTER TANK WALKWAY PLAN	15-Mar-18
S-3.3	DIGESTER TANK SECTIONS	15-Mar-18
S-4.1	CLARIFIER TYPICAL TOP PLAN	15-Mar-18
S-4.2	CLARIFIER TYPICAL FOUNDATION PLAN	15-Mar-18
S-4.3	CLARIFIER TYPICAL SECTIONS	15-Mar-18
S-4.4	SCUM PUMP STATION PLAN AND DETAILS	15-Mar-18
S-5.1	RAS-WAS WET WELL PLANS	15-Mar-18
S-5.2	RAS-WAS WET WELL SECTIONS	15-Mar-18
S-5.3	RAS-WAS PUMP SLAB PLAN AND SECTION	15-Mar-18
S-5.4	DRAIN PUMP STATION PLAN AND SECTION	15-Mar-18
S-6.1	FILTERS TOP SLAB PLAN	15-Mar-18
S-6.2	FILTERS FOUNDATION SLAB PLAN	15-Mar-18
S-6.3	FILTERS LOWER PLAN	15-Mar-18
S-6.4	FILTERS GRATING AND WALKWAY PLAN	15-Mar-18
S-6.5	FILTERS STRUCTURAL SECTIONS	15-Mar-18
S-6.6	FILTERS STRUCTURAL SECTIONS 2	15-Mar-18
S-7.1	CHLORINE CONTACT CHAMBER TOP PLAN	15-Mar-18
S-7.2	CHLORINE CONTACT CHAMBER FOUNDATION PLAN	15-Mar-18
S-7.3	CHLORINE CONTACT CHAMBER GRATING & WALKWAY PLAN	15-Mar-18
S-7.4	CHLORINE CONTACT CHAMBER SECTION AND DETAILS 1	15-Mar-18
S-7.5	CHLORINE CONTACT CHAMBER SECTION AND DETAILS 2	15-Mar-18
S-8.1	DEEP INJECTION WELL PLAN	15-Mar-18
S-16.1	REJECT PUMP STATION PLAN & SECTION	15-Mar-18
S-18.1	REJECT EFFLUENT METER DETAILS	15-Mar-18
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370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

April 10, 2018

Subject: Addendum No. 5 – Building Package Bidding Specifications

Attn: Work Package 5 Bidding Subcontractors

From: Garney Construction

Project: West Villages SWWWRF

General:

1. The Specifications included herein are for use in bid preparation for Work Package 5 – Metal Buildings. These Specifications are being provided as a basis for the materials which are to be furnished and installed under the referenced work package. Where these specifications conflict with the contract drawings, the contract drawings shall override. All references to North Carolina Building code shall instead reference Florida Building code. These specifications do not supersede Florida Building and/or design requirements of the buildings.
    a. Specifications Provided:
        i. 06400 – Architectural Woodwork
        ii. 06650 – Solid Surface Shower Systems
        iii. 07270 – Under Slab Vapor Barrier
        iv. 08100 – Standard Steel Doors & Frames
        v. 08210 – Flush wood Doors
        vi. 083310 – Overhead Coiling Doors
        vii. 08520 – Aluminum windows
        viii. 08520 – Glazing
        ix. 09250 – Gypsum Board Systems
        x. 09300 – Tile
        xi. 09510 – Suspended Acoustical Ceilings
        xii. 09651 – Resilient Tile Flooring
        xiii. 09653 – Resilient Wall Base
        xiv. 09680 – Carpeting
        xv. 10200 – Louvers
        xvi. 10431 – Interior Signage
        xvii. 10503 – Plastic Lockers
        xviii. 10522 – Fire Extinguishers
        xix. 10800 – Toilet and Bath Accessories
        xx. 12345 – Laboratory Casework

2. The Architectural Wind Load and Coding Requirements have been updated by the Architect. These changes have been made to the Architectural Drawings.
    a. The summary of these changes are:
        i. All floor plan sheets have been revised with appropriate coding requirements.
        ii. Nothing architectural has changed (no rooms or sizes), just code text.
        iii. Building manufacturer will have to pick fasteners and roof assembly and building envelope system to meet 170 MPH wind load requirement as specified in the plans.
        iv. Risk category changed from 2 to 4 because of the City's Essential Building requirement.

END OF ADDENDUM No. 5

SECTION 06400 - ARCHITECTURAL WOODWORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. The Drawings and provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 1, General Requirements, are included as a part of this Section as though bound herein.

1.2 DESCRIPTION OF WORK

A. Extent of each type of architectural woodwork is indicated on drawings and in schedules.

B. Types of architectural woodwork include the following:

1. Interior wood trim, rails, and miscellaneous wood fabrications
2. Architectural casework including:
   a. Plastic laminate clad cabinets.
   b. Hardwood veneer cabinets for transparent finish.
   c. Plastic laminate clad counter tops, edges, back splash, 1/2" thick min.
3. Closet and utility shelving brackets, standards.

C. Related work:

1. Division 06100 Specification for Rough Carpentry for wood furring, blocking shims and hanging strips required for installation of woodwork and concealed within other construction before woodwork installation.
2. Division 06451 Solid Surface Fabrications for countertops at locations as indicated on drawings.

1.3 QUALITY ASSURANCE

A. AWI Quality Standard: Comply with applicable requirements of "Architectural Woodwork Quality Standards" Premium Grade, published by the Architectural Woodwork Institute (AWI), except as otherwise indicated.

B. Installer Qualifications: A firm with at least 5 years experience in the fabrication of plastic laminate casework. Arrange for installation of plastic laminate casework and tops by the manufacturer.

C. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

D. Plastic Laminate: Provide plastic laminate produced by the same manufacturer throughout the project.

1.4 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.
B. Product Data: Submit manufacturer's product data for each production process specified as work of this section and each component incorporated into items of architectural woodwork during fabrication, finishing, and installation.

C. Shop Drawings: Submit shop drawings showing location of each item, dimensioned plans and elevations, large scale details, attachment devices and other components.

D. Test Data: Submit test data for magnetic catches and adjustable shelf supports showing compliance with requirements specified.

E. Samples: Submit the following samples:
1. Lumber with or for transparent finish; 6" x 3/4" x 18", for each species and item, finished on one side and one edge.
2. Plastic laminate, 8" x 10" for each type, color, pattern and surface finish.

1.5 DELIVERY, STORAGE, AND HANDLING

A. Protect woodwork during transit, delivery, storage and handling to prevent damage, soiling and deterioration.

B. Do not deliver woodwork, until painting, wet work, grinding and similar operations which could damage, soil or deteriorate woodwork have been completed in installation areas. If, due to unforeseen circumstances, woodwork must be stored in other than installation areas, store only in areas meeting requirements specified for installation areas.

1.6 PROJECT CONDITIONS

A. Conditioning: Require the Woodwork Manufacturer and Installer to advise the Contractor of temperature and humidity requirements for woodwork installation and storage areas. Do not install woodwork until required temperature and relative humidity have been stabilized and will be maintained in installation areas.

B. Maintain temperature and humidity in installation area as required to maintain moisture content of installed woodwork within a 1.0 percent tolerance of optimum moisture content, from date of installation through remainder of construction period. Require Woodwork Manufacturer to establish optimum moisture content and required temperature and humidity conditions.

PART 2 - PRODUCTS

2.1 FABRICATION, GENERAL

A. Wood Moisture Content: Comply with requirements of referenced quality standard for moisture content of lumber at time of fabrication and for relative humidity conditions in the installation areas.

B. Fabricate woodwork to dimensions, profiles, and details indicated with openings and mortises precut, where possible, to receive hardware and other items and work.

C. Ease edges to a 1/8" radius, for corners and edges of solid wood (lumber) members less than 1" in nominal thickness.

D. Complete fabrication, assembly, finishing, hardware application, and other work before shipment to project site to maximum extent possible. Disassemble components only as necessary for shipment and installation. Where necessary for fitting at site, provide ample allowance for scribing, trimming, and fitting.

E. Pre-Cut Openings: Fabricate architectural woodwork with pre-cut openings, where possible, to receive hardware, appliances, plumbing fixtures, electrical work and similar items. Locate openings accurately and use templates or roughing-in diagrams for proper size and shape. Smooth edges of cutoffs and, where located in countertops and similar exposures, seal edges of cutouts with a pigmented, water-resistant coating.

F. Measurements: Before proceeding with fabrication of woodwork required to be fitted to other construction, obtain field measurements and verify dimensions and shop drawing details as required for accurate fit.
   1. Where sequence of measuring substrates before fabrication would delay the project, proceed with fabrication (without field measurements) and provide ample borders and edges to allow for subsequent scribing and trimming of woodwork for accurate fit.

2.2 STANDING & RUNNING TRIM, RAILS, MISCELLANEOUS WOOD FABRICATIONS

A. Quality Standard: Comply with AWI Section 300.

B. Rout or groove backs of flat trim members, except for members with ends exposed in finished work.

C. Interior Trim and Miscellaneous Wood Fabrications for Transparent Finish: Comply with the following requirements:
   1. Grade: Premium.
   2. Lumber Species: Red Oak, plain sliced.
   3. Transparent Finish:
      a. General: Comply with applicable requirements of Section 09900 of referenced AWI Standard for types of finish systems indicated.
      b. Provide Owner's choice of clear or stain finish,
      c. Interior Trim and Miscellaneous Wood Fabrications for Opaque Finish: Comply with the following requirements:
   4. Grade: Custom.
   5. Lumber Species: Red Oak.

2.3 ARCHITECTURAL CABINETS, LAMINATE CLAD

A. Quality Standard: Comply with AWI Section 400 and its Division 400B.

B. Laminate Clad Cabinets: Comply with the following requirements:
   1. Grade: Premium.
   2. Type of Cabinet Construction: Reveal overlay.

C. Laminate Cladding: High pressure decorative laminate complying with NEMA LD 3 and as follows:
   1. Colors, Patterns and Finishes: Selected from manufacturer's full range of standard products.

D. Laminate Grade for Exposed Surfaces: Provide laminate cladding complying with the following requirements for type of surface and grade.
   1. Horizontal Surfaces Other Than Tops: GP-50 (0.050" nominal thickness).
   2. Vertical Surfaces: Exposed vertical surfaces shall be covered with high pressure laminate (GP-28, 0.028" nominal thickness) complying with NEMA standard LD3. "Melamine" products will not be considered for acceptance in lieu of high pressure plastic laminate.
   3. Edges: Provide 3 mm flat PVC edge banding in color selected by the Architect from Manufacturer's standard colors.
   4. Special Notice: All surfaces of open cubby hole type casework units, shall be considered "exposed".
   5. Semi-Exposed Surfaces: Provide surface materials indicated below. "Semi-exposed surfaces" are defined to include interior drawer surfaces, the inside face of cabinet doors, both faces of cabinet shelves, the bottom of cabinet interiors, the sides of cabinet interiors, both sides of vertical cabinet dividers, and other surfaces which are exposed when the cabinet doors and drawers are opened.

E. High Pressure Laminate Cabinet Liner: CL-20 complying with NEMA standard LD3

F. Provide dust panels of 1/4" plywood or tempered hardwood above compartments and drawers except where located directly under tops.

2.4 ARCHITECTURAL CABINETS, WOOD VENEER FOR TRANSPARENT FINISH

A. Quality Standard: Comply with AWI Section 400 requirements for wood cabinets.

B. Cabinets: Comply with the following requirements:
   1. Grade: Premium.
   2. Type of Cabinet Construction: Reveal overlay.
   3. Transparent Finish:
      a. General: Comply with applicable requirements of Section 09900 of referenced AWI Standard for types of finish systems indicated.
      b. Provide Owner's choice of clear or stain finish.

C. Lumber Species: Red Oak, plain sliced
   1. Vertic matching of veneer leaves: Slip Match

D. Semi-Exposed Surfaces: Provide surface material indicated below:
   1. Surfaces other than Drawer Bodies: Thermoset decorative overlay
   2. Drawer sides and backs:: Thermoset decorative overlay

3. Drawer bottoms: Thermoset decorative overlay

E. High Pressure Laminate Cabinet Liner: CL-20 complying with NEMA standard LD3

F. Provide dust panels of 1/4" plywood or tempered hardwood above compartments and drawers except where located directly under tops.

2.5 CABINET HARDWARE AND ACCESSORY MATERIALS

A. General: Provide cabinet hardware and accessory materials associated with architectural cabinets.

B. Cabinet Hardware Schedule: Refer to schedule at end of this section for cabinet hardware required for architectural cabinets.

C. Rubber Base: Refer to Section 09650 - "Resilient Flooring" for rubber base to be installed around the exposed perimeter of base cabinets by the Resilient Flooring subcontractor.

2.6 ARCHITECTURAL CABINET TOPS

A. Quality Standard: Comply with AWI Section 400 and its Division 400C except provide moisture resistant plywood substrate for tops, backsplashes, and sidesplashes in lieu of particle board in all locations where tops are indicated to receive sinks.

B. Type of Top: Solid core

C. Laminate Cladding for Horizontal Surface: High pressure decorative laminate complying with NEMA LD 3 and as follows:
1. Colors, Patterns, and Finishes: As indicated or, if not otherwise indicated, as selected from manufacturer's full range of standard products.
2. Grade: GP-50 (0.050" nominal thickness).

D. Edge Treatment: Same as laminate cladding on horizontal surfaces.

2.7 CLOSET AND UTILITY SHELVING

A. Quality Standard: Comply with AWI Section 400 and its Division 400C, except where more stringent requirements are indicated on drawings.

B. Shelving for Laminate Finish: Comply with the following requirements:
1. Top and Bottom Treatment: Melamine.
2. Edge Treatment: Red Oak.

2.8 FASTENERS AND ANCHORS

A. Screws: Select material, type, size and finish required for each use . Comply with FS FF-S-111 for applicable requirements.

B. Nails: Select material, type, size and finish required for each use. Comply with FS FF-N-105 for applicable requirements.

C. Anchors: Select material, type, size and finish required by each substrate for secure anchorage. Provide non-ferrous metal or hot-dip galvanized anchors and inserts for exterior installations and elsewhere as required for corrosion-resistance. Provide toothed steel or lead expansion bolt devices for drilled-in-place anchors. Furnish inserts and anchors, as required, to be set into concrete or masonry work for subsequent woodwork anchorage.

2.9 FACTORY FINISHING OF INTERIOR ARCHITECTURAL WOODWORK

A. Quality Standard: Except where more stringent requirements are indicated on drawings, comply with AWI Section 1500, S-1, S-2, S-6 (Premium Grade), and those portions of T-1 relating to sanding, glue spots, and nail holes (Premium Grade).

B. Preparations for Finishing: Comply with referenced quality standard for sanding, filling countersunk fasteners, sealing of concealed surfaces and similar preparations for finishing of architectural woodwork, as applicable to each unit of work.

C. Refer to Division 9 sections for final finishing of installed Architectural Woodwork.

D. Back Priming: Architectural Woodwork shall be back primed by the fabricator prior to shipment to the job site.
1. Back priming is specifically excluded from Division 9 specification "Painting."

PART 3 - EXECUTION

3.1 PREPARATION

A. Condition woodwork to average prevailing humidity conditions in installation areas prior to installing.

B. Pre-Installation Meeting: Meet at project site prior to delivery of architectural woodwork and review coordination and environmental controls required for proper installation and ambient conditioning in areas to receive work.
1. Include in meeting the Contractor; Architect and other Owner Representatives (if any); Installers of architectural woodwork, wet work such as plastering, other finishes, painting, mechanical work and electrical work; and firms or persons responsible for continued operation (whether temporary or permanent) of HVAC system as required to maintain temperature and humidity conditions. Proceed with woodwork installation only when everyone concerned agrees that required ambient conditions can be maintained.

C. Prior to installation of architectural woodwork, examine shop fabricated work for completion, and finish remaining work, including back priming and removal of packing.

3.2 INSTALLATION

A. Install woodwork plumb, level, true and straight with no distortions. Shim as required using concealed shims. Install to a tolerance of 1/8" in 8'-0" for plumb and level (including tops); and with no variations in flushness of adjoining surfaces.

B. Scribe and cut woodwork to fit adjoining work, and refinish cut surfaces and repair damaged finish at cuts.

C. Anchor woodwork to anchors or blocking directly attached to substrates. Secure to grounds, stripping and blocking with countersunk, screws concealed with plugs matching woodwork glued in place and sanded flush with surrounding wood. Use fine finishing nails for exposed nailing where screws cannot be used. Countersink nails and fill flush with woodwork; match final finish where transparent finish is indicated in Division 9 "Painting" specifications.

D. Standing and Running Trim: Install with minimum number of joints possible, using full-length pieces (from maximum length of lumber available) to the greatest extent possible. Stagger joints in adjacent and related members. Cope at returns, miter at corners and comply with referenced Quality Standards for joinery.

E. Cabinets: Install without distortion so that doors and drawers fit openings properly and are accurately aligned. Adjust hardware to center doors and drawers in openings and to provide unencumbered operation. Complete the installation of hardware and accessory items as indicated.

F. Tops: Anchor securely to base units and other support systems as indicated.

G. Storage Shelving: Complete the assembly of units and install in the areas indicated, including hardware and accessories as indicated.

3.3 ADJUSTMENT, CLEANING, FINISHING, AND PROTECTION

A. Repair damaged and defective woodwork to eliminate defects functionally and visually; where not possible to repair - replace woodwork. Adjust joinery for uniform appearance.

B. Adjust cabinet doors and drawers until level and of height matching adjoining cabinet doors and drawers.

C. Remove and replace drawer and door units which cannot be properly adjusted in the field.

D. Clean, lubricate and adjust hardware.

E. Clean woodwork on exposed and semi-exposed surfaces. Touch-up shop-applied finishes to restore damaged or soiled areas.

F. Complete the finishing work specified as work of this section, to whatever extent not completed at shop or prior to installation of woodwork.

G. Refer to the Division-9 sections for final finishing of installed architectural woodwork.

H. Provide final protection and maintain conditions, in a manner acceptable to Fabricator and Installer, which ensures architectural woodwork being without damage or deterioration at time of substantial completion.

3.4 ARCHITECTURAL WOODWORK HARDWARE SCHEDULE

A. Pull Handles: Shall be manufacturers' standard 4" wire pull fabricated of stainless steel or chrome plated brass or bronze.

1. Provide and install one pull on every drawer and cabinet door.

B. Drawer Slides: Epoxy coated, 100 lbs. capacity, bottom mount slide with nylon rollers and build-in stops in both directions, full extension.

C. Hinges: Institutional 5 knuckle with interlaying leaves capable of 270 degree swing. They shall be of nominal .090 minimum thickness steel and shall be hospital tipped with non-removable pins fastened with 4 screws each leaf into faces. No edge fastening allowed.
   1. Finish: Brushed chrome, US26D finish.
   2. Provide two hinges for doors 36" or less in height Provide 3 or 4 hinges for doors over 36" in height.

D. Magnetic or Roller Catches: Shall provide ADA compliant holding force and may be metal or plastic. Provide one catch for every door less than 36" in height and two units on every door 36" or taller.

E. Adjustable Shelf Standards and Related Supports: At Contractor's Option, provide one of the following types of adjustable shelf support systems:
   1. Horizontal Slotted Type: 5/8" wide x 3/16" high, BHMA No. B84071, zinc-plated steel.
   2. Mounting: Surface or mortise mount, at Contractor's option.
   3. Support Type: Closed shelf rest, BHMA No. B84081, zinc-plated steel.
   4. Pin Type: Nylon or metal (2 pin) shelf supports for installation in pre-drilled holes in cabinet ends and vertical partitions. The shelf supports shall be designed and installed to prevent the shelf support from rotating. Each shelf support shall resist at least 50 pounds dead load; provide at least 4 supports for each adjustable shelf.

F. Locks: Provide Manufacturers' standard drawer and cabinet door locks where indicated on drawings. Locks within each room or space shall be keyed alike unless specifically noted otherwise on drawings.

G. Clothes Poles and Supports: Provide steel pipe or tubing cut to length required, with standard wrought steel flanges (one with open top).
   1. Size: 1.66" OD, 0.14" wall thickness
   2. Finish: Satin chrome plated.

END OF SECTION 06400

SECTION 06650 - SOLID SURFACE SHOWER SYSTEMS

PART 1 – GENERAL

1.1 SUMMARY

A. Section includes: Solid Surface material, as indicated and specified

B. Work Specified in this Section:

1. Shower and tub wall panels.
2. One-piece shower pans.
3. Shower Accessories.

1.2 RELATED SECTIONS

A. Related work specified in other sections:

1. Section 06100 - Rough Carpentry.
2. Section 07920 - Sealants.
3. Division 15 for Coordination with Plumbing.

1.3 DEFINITION

A. Solid surface is a homogeneous thermoset polymer compound, comprised of acrylic and polyester components filled with aluminum trihydrate. Materials are non-porous and homogenous, with uniform color and pattern throughout the entire thickness. Materials should be 100% repairable.

1.4 REFERENCES

A. ANSI Z124.3 – American National Standard for Plastic Lavatories; 2005

B. ISSFA-2 – Classification and Standards for Solid Surfacing Material; International Solid Surface Fabricators Association; 2001

C. ASTM E84 – Standard Test Method for Surface Burning Characteristics of Building Materials; 2007

1.5 SUBMITTALS

A. Manufacturer's Product Data:

1. Manufacturer's Color Chart
2. MSDS sheets
3. Product Description to include identifying name and color

B. Shop Drawings: Indicate locations of each item, with detailed and dimensioned plans and elevations, cutout locations, accessories, reinforcements and supports, and edge treatments.

C. Samples: Full range of manufacturer's colors and patterns, minimum 2" x 2" samples of final color selections.

D. Manufacturer's Fabrication and Installation Manual.

E. Maintenance Data: Provide care and maintenance instruction.

F. Submit under provisions of Section 01330 and 01340.

1.6 QUALITY ASSURANCE

A. Source Limitations

B. Where solid surface is indicated on drawings, the material shall be manufactured by single source supplier

C. Installers Qualifications: Company specializing in fabricating and installing the products specified in this section with a minimum three years experience and approved by manufacturer of solid surface shower system.

D. Coordination of Installation:

1. Coordinate required in-wall blocking types and locations with Construction Manager.
2. Coordinate recesses in concrete slabs, drain locations and plumbing fixture locations with plumber and Construction Manager.

1.7 DELIVERY, STORAGE AND HANDLING

A. Transport and handle all materials according to manufacturer's recommended instructions to prevent damage to finished surfaces.

B. Store all components indoors prior to installation.

C. Do not deliver any components to job site until areas are prepared for installation.

D. Provide protective coverings on all installed components to prevent physical damage and staining for the duration of the project.

1.8 WARRANTY

A. Provide manufacturer's 10-year warranty against defects in materials.

1. Damage caused by abuse, improper manufacturing or installation techniques, or neglect will not to be warranted by the manufacturer.

PART 2 - PRODUCTS

2.1 MANUFACTURER

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American**

Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.

2.2 MATERIALS

A. Solid Polymer Fabrications

1. Solid surface material should be a homogeneous thermoset polymer compound, comprised of acrylic and polyester components filled with aluminum trihydrate. Materials are non-porous and homogenous, with uniform color and pattern throughout the entire thickness. Materials should be 100% repairable.
2. Material meets performance requirements listed below in H.

B. Shower and Tub Walls

1. Wall panels shall be ¼" thick full width and height of wall sections.
2. Provide matching inside corner, edge and border trim.
3. Grab Bars as specified in Section 10800;; fasteners to be concealed with snap-on cover plates. All grab bar installations shall withstand forces in excess of 300 lbs.
4. Shower Curtain Rods as specified in Section 10800.
5. Soap and Shampoo Shelf
   a. Recessed Soap and Shampoo Shelf: Solid Surface material, finish to match wall panels; 15" H. x 7" W. x 3" D., with 2 shelves.

C. Shower Pans

1. Shower pan are to be made from solid cast polyester / acrylic blend resin and have adjustable drain locations, coved side walls, at least a 1" panel platform with a 5 degree slope and a 1' minimum water dam. It should have a non-skid floor with water channels directing water to the drain at a 2 degree slope (1/4" per foot)
2. Pans shall carry a 10 year materials and workmanship warranty against cracks, breakage, and leaks.
3. Shower pans shall meet the minimum ANSI Z124.2 certification.
4. Shower pans shall have a non-slip co-efficient rating of .20 or greater as registered by the ASTM F462 slip resistance test method.
5. Shower pans to be Fully-Accessible Shower Receptor: Recessed ADA accessible shower floor pan with ½" (max.) front threshold. Size and configuration as indicated on drawings.
6. Shower Floor Drain Assembly: 2" Diameter Brass Drain Assembly, to include drain nut, rubber gaskets, and stainless steel drain cover
7. Collapsible Water Retainer Shower Dam Threshold designed for roll-in wheelchair showers; 1.5 inches high, 1-inch wide at top and 1 3/8 inches wide at base.

D. Color: to be selected by Owner from manufacturer's standard colors

E. Finishes

1. Final finish is supplied by the fabricator and may range from matte to high gloss, depending on the customer's specification. Surfaces with gloss and semi-gloss finishes

require more maintenance than matte or satin finishes. Darker colors also may require more attention.

F. Basic Limitations

1. Designed for interior use only.

G. Accessories:

1. Accessories, in matching materials, shall include inside and outside corner moldings and ceiling and wall molding designed to protect and conceal the waterproofing silicone sealant. The waterproof nature of the shower wall panels and pans shall not rely on surface caulking. Matching solid surface soap dishes shall be provided at each shower. Provide shop drawing for approval.

H. Performance Characteristics:

1. Comprehensive Analysis Data - Solid Surface

Test Type	Test Method	Results
Hardness	ASTM D-2583-95	58- 60
Work to Break		8.56
Flex. Strength	ASTM D- 790	9,870
Mod.		1,330,000
Gloss	NEMA LD 3-3 1513.2	5- 20
Wear and Clean	ANSI Z124.3	Passes
Abrasion Resistance	CS 221-66	No Loss of Pattern
Cigarette Resistance	NEMA LD3-3.07	No Effect
Boiled Water Resistance	NEMA LD3- 3.05/3.5	See Below*
High Temperature Resistance	NEMA LD3- 3.06/3.5	No Effect
Chemical Resistance	ANSI Z124.3	No Effect
Color Stability	ASTM D-792	Slight Effect at 200 Hours
Conductive Heat	NEMA LD3- 3.08/ 3.8N	Slight Effect
Unnotched Impact	ASTM D- 256- 96a	1.3
Notch Impact	ASTM D- 256- 96a	0.33 Ft- Lb/ In
Stain	ANSI Z124.3	Passes- 43
Sp. Gr.	ASTM D- 729- 91	1.71
Water Absorption	ASTM D- 570- 95	0.022
Flammability	ASTM E- 84	Class 1
Oxygen Index	ASTM D- 2863	0.33
% Cure by DSC	Analytical	97%
GC Head Space .	Analytical	1030 PPM

* Boiling water and high temperature resistance tests may have an effect on the surface; however, the surface can be renewed to 'No Effect'.

Typical properties refers to an average value.

2. Fire Test Data

Solid Surface materials shall be classified by Underwriters Laboratories under UL File Number R14436 for surface burning characteristics. Test data for Solid Surface panels shall be generated according to ASTM E 84: Standard Test Method for Surface Burning Characteristics of Building Materials. This procedure is catalogued by Underwriters Laboratories, Inc. as UL 723. For panels with a thickness of one-half inch (13 mm), the Flame Spread Index is less than or equal to 25 and the Smoke Developed Index is less than or equal to 25.

3. Materials shall comply with the following Codes And Certifications

   a. Approved by NSF International Standard 51 "Splash Zone" areas.
   b. ASTM G-22 bacterial resistance
   c. ASTM G-21 fungal resistance

2.3 FABRICATION

A. Solid Surface shall be fabricated by an authorized fabricator/installer.

B. Fabricate to field measurements and in accordance with manufacturer's recommendations. Field or shop seaming as required. Seamed panels shall be waterproof and seams invisible.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Examine substrates to receive solid surfacing. Correct any conditions that are substandard or will interfere with installation. Verify that all supports are suitable for installation per drawings.

3.2 INSTALLATION

A. Install products plumb and level in locations indicated, in accordance with manufacturer's recommended installation procedures.

B. Coordinate plumbing installation with Division 15.

3.3 CLEANING

A. After installation is complete, remove all excess adhesive, dirt and debris from the installation.

3.4 PROTECTION

A. Protect surfaces from damage until project is completed. Repair or replace damaged components.

B. Provide maintenance and care instructions.

END OF SECTION 06650

07270 - UNDER-SLAB VAPOR BARRIER

PART 1 – GENERAL

1.1 SUMMARY

A. Products supplied under this section:
   1. Vapor barrier, seam tape, and mastic for installation under concrete slabs.

B. Related sections:
   1. Section 03300 - Cast-in-Place Concrete
   2. Section 04100 - Unit Masonry
   3. Section 07210 - Building Insulation

1.2 REFERENCES

A. American Society for Testing and Materials (ASTM):

   1. ASTM E 1745-09 Standard Specification for Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill Under Concrete Slabs.
   2. ASTM E 154-99 (2005) Standard Test Methods for Water Vapor Retarders Used in Contact with Earth Under Concrete Slabs, on Walls, or as Ground Cover.
   3. ASTM E 96-05 Standard Test Methods for Water Vapor Transmission of Materials.
   4. ASTM F 1249-06 Standard Test Method for Water Vapor Transmission Rate Through Plastic Film and Sheeting Using a Modulated Infrared Sensor.
   5. ASTM E 1643-09 Selection, Design, Installation, and Inspection of Water Vapor Retarders Used in Contact with Earth or Granular Fill Under Concrete Slabs.

B. American Concrete Institute (ACI):

   1. ACI 302.2R-06 Guide for Concrete Slabs that Receive Moisture-Sensitive Flooring Materials.

1.3 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Quality control/assurance:

   1. Summary of test results as per paragraph 8.3 of ASTM E 1745.
   2. Manufacturer's samples, literature.
   3. Manufacturer's installation instructions for placement, seaming and penetration repair instructions.

PART 2 – PRODUCTS

2.1 MANUFACTURER

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The**

Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.

2.2 MATERIALS

A. Vapor barrier must have all of the following qualities:

1. Permeance of less than 0.01 Perms [grains/(ft^2 · hr · inHg)] as tested in accordance with ASTM E 1745 Section 7.

2. Other performance criteria:
   a. Strength: ASTM E 1745 Class A.
   b. Thickness: 15 mils

2.2 ACCESSORIES

A. Seam tape:
   1. Stego Tape as recommended by Membrane Manufacturer

B. Vapor-proofing mastic:
   1. Stego Mastic as recommended by Membrane Manufacturer

PART 3 – EXECUTION

3.1 PREPARATION

A. Ensure that base material is approved by Geotechnical Engineer.
   1. Level and compact base material.

3.2 INSTALLATION

A. Install vapor barrier in accordance with manufacturer's instructions and ASTM E 1643.
   1. Unroll vapor barrier with the longest dimension parallel with the direction of the concrete placement.
   2. Lap vapor barrier over footings and/or seal to foundation walls.
   3. Overlap joints 6 inches and seal with manufacturer's tape.
   4. Seal all penetrations (including pipes) per manufacturer's instructions.
   5. No penetration of the vapor barrier is allowed except for reinforcing steel and permanent utilities.
   6. Repair damaged areas by cutting patches of vapor barrier, overlapping damaged area 6 inches and taping all sides with tape

END OF SECTION 07270

At a minimum, all doors shall include hinges, lock sets with levers, strikes, thresholds, door/wall stops, closers, kick plate, silencers, sweeps (exterior), weatherstripping (exterior), drip cap (exterior), flush bolts (double doors), astragal (double doors), construction cylinders, permanent cylinders, and panic hardware at all doors at electrical rooms. Keying to be coordinated with Owner. All hardware shall be minimum Grade 2. Door hardware sets are to be submitted to the Construction Manager and Engineer for review and approval.

SECTION 08100 - STANDARD STEEL DOORS AND FRAMES

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Non-rated thermally insulated and uninsulated steel doors.

B. Louvers.

1.2 RELATED SECTIONS

A. Section 04100 – Unit Masonry

B. Refer to Project Drawings for Door Hardware Schedule.

C. Section 08100 – Standard Steel Doors and Frames

D. Section 08211 – Fire Rated Wood Doors

D. Section 08800 - Glazing: Glass for doors.

E. Section 09900 - Painting: Field finishing of doors.

1.3 REFERENCES

A. ANSI A117.1 - Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People.

B. ASTM A525 - Steel Sheet, Zinc-Coated (Galvanized) by the Hot-Dip Process.

C. ASTM C236 - Test Method for Steady-State Thermal Performance of Building Assemblies by Means of a Guarded Hot-Box.

D. DHI (Door Hardware Institute) - The Installation of Commercial Steel Doors and Steel Frames, Insulated Steel Doors in Wood Frames and Builder's Hardware.

E. ANSI/SDI A250.8 ; SDI-100 -"Recommended Specifications for Standard Steel Doors and Frames" as Published by the Steel Door Institute.

1.4 SUBMITTALS FOR REVIEW

A. Section 01300 and 01340. - Submittals: Procedures for submittals.

B. Product Data: Indicate door configurations, location of cut-outs for hardware reinforcement. Note that the Owner's Vendor is providing security hardware for entry doors. The **Contractor is responsible for coordinating the door submittal information with the Owner's security vendor.**

C. Shop Drawings: Indicate door elevations, internal reinforcement, closure method, and cut-outs for glazing, louvers, and finishes.

F. Manufacturers Certification of steel's recycled content.

1.5 QUALITY ASSURANCE

A. Conform to requirements of SDI-100 and ANSI A117.1.

B. Manufacturer: Company specializing in manufacturing the Products specified in this section with minimum three years documented experience.

C. Source Limitations: Obtain standard steel doors and frames through one source from a single manufacturer.

D. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

1.6 DELIVERY, STORAGE, AND PROTECTION

A. Accept doors on site in manufacturer's packaging. Inspect for damage.

B. Break seal on site to permit ventilation.

1.7 PROJECT CONDITIONS

A. Coordinate frame installation with size, location, and installation of service utilities.

B. Coordinate the work with door opening construction, door frame, and door hardware installation.

PART 2 - PRODUCTS

2.1 FRAMES

A. Exterior Frames:

1. Grade III for H.M. Doors, 14 Ga. inch material, base metal thickness.
2. Fabricate frames with mitered or coped and back welded face corners and seamless face joints.
3. Note that the Owner's Vendor is providing security hardware for entry doors. The **Contractor is responsible for coordinating the door submittal information with the Owner's security vendor.**

B. Interior Frames:

1. Grade III for SC Wood Doors, 14 Ga. thick material, base metal thickness.

2. Fabricate frames with mitered or coped and back welded face corners and seamless face joints.
3. Frames for Borrowed Lights: 16 gage thick steel sheet.

C. Steel use in fabrication shall be manufactured from 90% recycled material with 50% post consumer content.

D. Exterior frames shall be 0.067" minimum base metal thickness (nominal 14 gage) galvanized steel

E. Interior frames shall be 0.053" minimum base metal thickness (nominal 16 gage)

2.2 DOORS

A. Exterior Doors (Thermally Isolated): SDI-100 Grade III Extra Heavy Duty, Model 2 Seamless, Hollow hot-dipped A60 galvanized steel. Insulated:

2.3 DOOR CONSTRUCTION

A. Face: Steel sheet in accordance with SDI-100 (16 MSG).

B. End Closure: Channel, 16 Ga. with steel top and bottom filler cap.

C. Insulated Core: closed cell polyurethane or polystyrene laminated to face sheets.

D. Thermal Insulated Door:

1. Provide insulated construction with U-value of at least 0.77
2. Insulation to have zero HCFC used in manufacturing.

E. Steel use in fabrication shall be manufactured from 90% recycled material with 50% post consumer content.

2.4 ACCESSORIES

A. Louvers: As shown in door elevations similar to that manufactured by Air Louver.

1. Material and Finish: Roll formed steel; pre-painted finish to match door.
2. Louver Blade: Inverted V.
3. Frame: Vandal proof style with tamper proof fasteners.

B. Glass: In accordance with Section 08800,

C. Removable Stops: Rolled steel, channel shape, mitered corners; prepared for countersink style tamper proof screws.

1. Wall type stops and holders have been specified for most openings, observing general policy of keeping such equipment off of the floors, away from interference with cleaning machines, and pedestrian interference or tampering. Provide floor stops where doors stop against a gypsum board wall. It may be necessary to relocate or change the type specified because of jobsite conditions. Such changes shall be worked out with the

hardware supplier at no extra in contract price. Units shall be stainless steel with brass, bronze or zinc components, shock blocks, and end plugs.

D. Primer: Zinc chromate type.

E. Frame Accessories:

1. Removable Stops: Rolled steel square shape, mitered corners; prepared for countersink style, tamper proof screws.
2. Bituminous Coating: Fibered asphalt emulsion.
3. Primer: Zinc chromate type.
4. Silencers: Resilient rubber steel fitted into drilled hole.
5. Weatherstripping: Unless otherwise indicated, provide full-length weatherstripping at each edge of every exterior swing door leaf. All weather-stripping to be by same manufacturer.

2.5 FABRICATION

A. Fabricate doors with hardware reinforcement welded in place.

B. Configure exterior doors with special profile to receive recessed weatherstripping.

C. Fabricate frames for exterior doors as welded unit. Interior doors welded unit: gypsum board slip on type.

D. Fabricate frames with hardware reinforcement plates welded in place.

1. Hinges: Minimum 7 gage thick x 1-1/2"wide x 6" longer than hinge, secured by not less than 6 spot welds.
2. Strike reinforcements: Minimum 16 gage thick.
3. All Other Surface-Mounted Hardware: Minimum 14 gage thick.

C. Prepare frames for silencers. Provide three single silencers for single doors and mullions of double doors on strike side.

D. Configure exterior frames with special profile to receive recessed weatherstripping.

F. Reinforce frames wider than 48 inches with roll formed steel channels fitted tightly into frame head, flush with top.

G. Transom Bars for Glazed Lights: Fixed type, of same profiles as jamb and head

H. Jamb Anchors

1. Masonry Type: Adjustable strap-and-stirrup or T-shaped anchors to suit frame size, not less than 18 gage thick, with corrugated or perforated straps not less than 2"wide x 10" long; or wire anchors not less than 7 gage thick.
2. Stud-Wall Type: Designed to engage stud, welded to back of frames; not less than 18 gage thick.
3. Compression Type for Slip-on Frames: Adjustable compression anchors.

4. Post installed Expansion Type for In-Place Concrete or Masonry: Minimum 3/8" diameter bolts with expansion shields or inserts. Provide pipe spacer from frame to wall, with throat reinforcement plate, welded to frame at each anchor location.

2.6 FINISH

A. Steel Sheet: Galvanized to ASTM A525 G90, exterior only.

B. Primer: Baked.

C. Field Finish: As scheduled in Section 09900.

D. For doors in masonry walls, coat inside of frame profile with bituminous coating to a thickness of 1/16 inch.

2.7 Fire-Rated Door, Sidelight and Transom Frame Assemblies: Assemblies complying with NFPA 80 that are listed and labeled by a testing and inspecting agency acceptable to authorities having jurisdiction, for fire-protection ratings indicated. See related Section for additional information contained within.

1. Test Pressure: Test at atmospheric (positive) pressure according to ASTM E-152, NFPA 252, UL 10C, IBC Standard. After 5 minutes into the test, the neutral pressure level in furnace shall be established at 40" or less above the sill

2. Oversize Fire-Rated Door Assemblies: For units exceeding sizes of tested assemblies, provide certification by a testing agency acceptable to authorities having jurisdiction that doors comply with standard construction requirements for tested and labeled fire-protection-rated door assemblies except for size.

3. Temperature-Rise Rating: At interior vertical stairwell enclosures, provide doors that have a temperature-rise rating of 250°F maximum in 30 minutes of fire exposure.

2.8 Fire-Rated, Borrowed-Light Frame Assemblies: Assemblies complying with NFPA 80 that are listed and labeled, by a testing and inspecting agency acceptable to authorities having jurisdiction, for fire-protection ratings indicated, based on testing according to NFPA 257 or UBC Standard 7-4. Label each individual glazed lite.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verification of existing conditions before starting work.

B. Verify that opening sizes and tolerances are acceptable.

3.2 INSTALLATION

A. Install doors and frames in accordance with SDI-100 and DHI.

B. Coordinate with masonry and gypsum board wall construction for anchor placement.

C. Install door louvers, plumb and level.

D. Coordinate installation of doors with installation of frames specified in Section 08112 and hardware specified in Section 08710.Coordinate installation of glass and glazing.

E. Coordinate installation of door hardware.

F. Install roll formed steel reinforcement channels between two abutting frames. Anchor to structure and floor.

3.3 ERECTION TOLERANCES

A. Maximum Diagonal Distortion: 1/16 inch measured with straight edge, corner to corner.

3.4 ADJUSTING

A. Adjust door for smooth and balanced door movement.

END OF SECTION 08100

SECTION 08210 - FLUSH WOOD DOORS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract including General and Supplementary Conditions and Division 1–Specification sections, apply to work specified in this Section.

B. Refer to Project Drawings for Door Hardware Schedule.

1.2 REFERENCE STANDARDS

A. WDMA IS 1A - Window and Door Manufacturers Association (WDMA)

B. AWI - Quality Standards of the Architectural Woodwork Institute (AWI)

C. FSC - Forest Stewardship Council guidelines for environmentally certified wood Doors

1.3 SUMMARY

A. This section includes:

1. Solid-core flush wood doors with wood-veneer overlay faces.

2. Factory pre-fitting, pre-machining for hardware, detailing, and factory prefinishing.

1.4 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Product Data: Submit door manufacturer's product construction data, hardware attachment performance data, specifications and installation instructions for each type of wood door, including details of core and edge construction, trim for lite openings and similar components.

C. Specific Product Warranty: The door shall be warranted by the manufacturer to be free of manufacturing defects for the life of the original installation. Warranty shall provide for repair or replacement of the door as originally furnished. Manufacturer shall elect to repair or replace defective door(s), and will assume reasonable costs associated with same. Manufacturer may, per its discretion, elect to use either its own or third party resources to resolve warranty claims.

D. Shop Drawings: Provide the following information:

1. Door type.
2. Door size.
3. Fire Rating.
   a) Neutral pressure - UL 10B/UBC43-2 or 7-2-94.
   b) Positive pressure - UL 10C/UBC7-2-97.

4. Hardware types and locations.

5. Hardware blocking requirements and location.
6. Vision panel or louver cutout size and location.

E. Samples:

1. Color samples for factory prefinishing. Manufacturer must submit samples of not less than 4" x 6" size on representative veneer or paintable surface, with sample date indicated.
2. Construction samples. Corner sections with door faces, edges, and core representative of the specified door type(s). Corner samples to be not less than 6" x 6".

F. Manufacturer's Certification that wood veneers is from a FSC certified provider.

1.5 QUALITY ASSURANCE

A. Manufacturer: Company specializing in manufacturing products specified in Section with a minimum of five years documented experience. All doors must be supplied through one Company.

B. Note that the Owner's Vendor is providing security hardware for entry doors. **The Contractor is responsible for coordinating the door submittal information with the Owner's security vendor.**

C. Quality Standard: Doors to comply with WDMA IS 1A (Window and Door Manufacturers Association).

D. Fire Ratings Compliance: Fire-rated wood doors, if specified shall comply with NFPA-80 requirements according to building code standards having local jurisdiction.

1. Neutral Pressure Testing - UBC 43-2 or 7-2-94; or UL10B.
2. Positive Pressure Testing UBC 7-2-97 or UL10C.

E. Label Certification: All doors requiring fire-rating will carry either UL or ITS (Warnock Hersey) label. Manufacturer's certification labels may be used for door size variations if approved by AHJ (Authority Having Jurisdiction).

F. Environmental Certification: All doors will be marked with Forest Stewardship Council (FSC) authorized certification, e.g. Smartwood approval and certificate number. Environmental certification ensures that wood components come from certified forests and are processed by chain-of-custody manufacturers.

G. Delivery/Storage/Handling: Store and protect doors in accordance with manufacturer's recommendations and WDMA. Following are general guidelines. For more specific information refer to WDMA's Appendix Section "Care and Installation at Job Site."

1. Store doors flat and off the floor on a level surface in a dry, well-ventilated building. Do not store on edge. Protect doors from dirt, water and abuse.
2. Certain wood species are light sensitive. Protect doors from exposure to light (artificial or natural) after delivery.

3. Do not subject interior doors to extremes in either heat or humidity. HVAC systems should be operational and balanced, providing a temperature range of 50 to 90 degrees Fahrenheit and 30% to 50% relative humidity.
4. When handling doors, always lift and carry. Do not drag across other doors or surfaces. Handle with clean hands or gloves.
5. Each door will be marked on top rail with opening number.

1.6 WARRANTY

A. Manufacturer's signed warranty covering manufacturing or material defects for life of original installation, including repair, replacement, machining, detailing and/or prefinishing, is a required part of the manufacturer's warranty for interior doors. Exterior applications per manufacturer.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 DOOR CONSTRUCTION, GENERAL

A. ENVIRONMENTALLY CERTIFIED DOORS - Environmentally certified doors carry a certification authorized under authority of the Forest Stewardship Council (FSC) and are certified to meet FSC requirements as pertaining to certified sourcing, content and chain-of-ownership requirements for materials used in construction of the door.

B. Non-Fire-Rated Doors

1. Custom Grade in accordance with WDMA IS 1A.

2. Construct using WDMA Five (5) Ply construction, using Hot Press method for laminating door materials. Stiles and rails must be securely bonded to the core and then abrasively planed prior to veneering.

3. Core

a) Structural Composite Lumber Core (SCLC-5) is an engineered hardwood composite sometimes referred to as LSL (Laminated Strand Lumber). The material complies with WDMA minimum performance levels for interior applications with screw holding power of 540 lbs., modulus of rupture of 6,500 psi, modulus of elasticity of 1,300,000 psi and density of 38 lbs per cubic foot.

4. Crossbands are wood-based composites of a minimum thickness of 1/16". Crossbands and face veneers are laminated to the core with Type 2 interior use glue using the Hot Press process. Crossbands must extend the full width of the door. Minimum properties include internal bond of 100 psi and density of 50 lbs. per cubic foot.

5. Stiles (Vertical Edges) - Stiles are hardwood, one piece, laminated or veneered. Constructions with laminated edges may use structural composite lumber as an inner stile component.

   a) Compatible - Similar in overall color, grain, character and contrast as the face veneer.

6. Rails (Horizontal Edges) - Rails are solid wood, structural composite lumber meeting the minimum requirements of WDMA.

7. Hardware Blocking – Provide minimum 5" top rail and 5" bottom rail.

8. Veneers - Refer to WDMA IS 1A for specific definitions and attributes.

   a) Face Grade Specified: A

   b) Veneer Cut Specified: Plain Sliced

   c) Veneer Species Specified: Red Oak

   d) Veneer Match Specified: Slip

   e) Veneer Assembly Specified: Center

2.3 DOOR FABRICATION

A. Factory-prefit and bevel doors (3°) to suit frame sizes indicated, with 3/16" prefit in width, + 0"/- 1/32", tolerances. Prefit top of door 1/8" +1/16"/-0", and undercut as designated by floor condition.

B. Factory pre-machine doors for hardware that is not surface applied. Locations and hole patterns to comply with specified hardware requirements as per NFPA 80 standards for doors specified; and to maintain door manufacturer's warranty.

   1. Specific locations for hardware will be coordinated between frame and door manufacturers.

   2. Specific hardware preps will be per hardware schedule(s) provided. Hardware preps to be neatly and cleanly squared as required per hardware templates.

   3. Metal astragals and channels to be supplied where fire-ratings will not allow metal-free edge(s).

C. Factory Preparation for Light Openings and Louvers - Cut and trim openings through doors to comply with NFPA 80 requirements where indicated; and to maintain door manufacturer's warranty.

1. Wood beads and wood louvers to be compatible with face veneer. Profiles and installation per door manufacturer's standard(s).

2.4 FINISHING

A. Finish Location

1. Field Finishing – All doors including beading and mouldings to be field finished. Proper procedures are critical to ensure satisfactory results. Additional preparatory work is required and should be in compliance with WDMA Industry Standards IS 1A. (For additional information see WDMA Publication How To Store, Handle, Finish, Install and Maintain Wood Doors.) Also refer to Division 9–Finishes, for this project, to ensure proper compliance with finishing requirements.

B. Finish Type

1. Transparent - Transparent finishes provide a clear protective coating over the wood, allowing the natural color and grain of the selected wood species to provide the appearance desired by the specifier and Owner. Stain is often applied to the wood surface underneath the transparent clear finish to add more color and design flexibility.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Confirm that frames comply with type, size, location and swing requirements and that they are installed plumb and square.

B. Inspect doors for any damage, manufacturing defects or prefinish inconsistency, e.g. wrong color or poor finish.

C. If frames and doors pass inspections (see A and B above), proceed to installation. If there are any issues in either frames or doors, do not proceed to installation. Contact appropriate supplier to correct unsatisfactory conditions, and proceed with installation only after corrections have been made.

3.2 INSTALLATION

A. Installation of wood doors to comply with WDMA IS 1A and specific door manufacturer's specific instructions.

3.3 ADJUSTING AND PROTECTING

A. After installation of door in frame, operate door to ensure that the door swings freely and that all hardware functions correctly. If not, make adjustments as required to provide an operable opening.

B. If required, protect doors following installation from damage that may occur as a result of project completion.

END OF SECTION 08210

SECTION 08331 – OVERHEAD COILING DOORS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

A. This Section includes the following types of overhead coiling doors:

1. Insulated service doors.

B. Related Sections include the following:

1. ivision 16 Section "Conductors and Cables" for electrical service and connections for powered operators, and accessories.
2. Division 16 Section "Disconnect Switches and Circuit Breakers" for disconnect switches and circuit breakers for powered operators.

1.3 DEFINITIONS

A. peration Cycle: One complete cycle of a door begins with the door in the closed position. The door is then moved to the open position and back to the closed position.

1.4 PERFORMANCE REQUIREMENTS

A. Structural Performance: Provide overhead coiling doors capable of withstanding the effects of gravity loads and the following loads and stresses without evidencing permanent deformation of door components:

1. ind Load: Uniform pressure velocity acting inward and outward as indicated in related documents on Project Structural drawings..

B. Operation-Cycle Requirements: Design overhead coiling door components and operator to operate for not less than 20,000 cycles.

1.5 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Product Data: For each type and size of overhead coiling door and accessory. Include details of construction relative to materials, dimensions of individual components, profiles, and finishes. Provide roughing-in diagrams, operating instructions, and maintenance information. Include the following:

1. Setting drawings, templates, and installation instructions for built-in or embedded anchor devices.

2. Summary of forces and loads on walls and jambs.
3. Motors: Show nameplate data and ratings; characteristics; mounting arrangements; size and location of winding termination lugs, conduit entry, and grounding lug; and coatings.
4. Fire-Rated Doors: Information describing fire-release system, including testing and resetting instructions. **Provide fire-rated doors at locations as indicated on drawings.**

B. Shop Drawings: For special components and installations not dimensioned or detailed in manufacturer's data sheets.

1. Wiring Diagrams: Detail wiring for power, signal, and control systems. Differentiate between manufacturer-installed and field-installed wiring and between components provided by door manufacturer and those provided by others.

C. Samples for Initial Selection: Manufacturer's color charts showing the full range of colors available for units with factory-applied finishes.

D. Samples for Verification: Of each type of exposed finish required, prepared on Samples of size indicated below and of same thickness and material indicated for Work. Where finishes involve normal color and texture variations, include Sample sets showing the full range of variations expected.

1. Curtain Slats: 12-inch length.
2. Bottom Bar: 6-inch length.
3. Guides: 6-inch length.
4. Brackets: 6 inches square.
5. Hood: 6 inches square.

E. Installer Certificates: Signed by manufacturer certifying that installers comply with specified requirements.

F. Insulation Certification: Submit certification that door insulation blowing agent is HCFC free and the in-place aged R-valve.

G. Manufacturers Certification of recycled content of steel.

H. Manufacturers Certification of Energy Star Compliance of factory finish.

1.6 QUALITY ASSURANCE

A. Installer Qualifications: Engage an experienced installer who is an authorized representative of the overhead coiling door manufacturer for both installation and maintenance of units required for this Project.

B. Source Limitations: Obtain overhead coiling doors through one source from a single manufacturer.
1. Obtain operators and controls from the overhead coiling door manufacturer.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 DOOR CURTAIN MATERIALS AND CONSTRUCTION

A. Door Curtain: Fabricate overhead coiling door curtain of interlocking slats, designed to withstand wind loading indicated, in a continuous length for width of door without splices. Unless otherwise indicated, provide slats of material thickness recommended by door manufacturer for performance, size, and type of door indicated, and as follows:

1. Steel Door Curtain Slats: Structural-quality, flat profile, cold-rolled galvanized steel sheets complying with ASTM A 653, with G90 zinc coating.
2. Insulation: Fill slat with HCFC Free polystyrene or polyurethane-foam-type thermal insulation complying with maximum flame-spread and smoke-developed indices of 75 and 450, respectively, according to ASTM E 84. Enclose insulation completely within metal slat faces.
3. Inside Curtain Slat Face: To match material of outside metal curtain slat and as follows:

a. Galvanized Steel Sheet Thickness: Not less than 0.028 inch, but sufficient to resist wind loading per NC Building Code as called out on project drawings.
b. Alternative methods, such as external bracing, may be proposed and supplied by the manufacturer to meet the wind loading. This must be supplied prior to bid for review and approval.

B. Endlocks: Malleable-iron castings galvanized after fabrication, secured to curtain slats with galvanized rivets, or high-strength nylon. Provide locks on not less than alternate curtain slats for curtain alignment and resistance against lateral movement.

C. Windlocks: Malleable-iron castings secured to curtain slats with galvanized rivets or high-strength nylon, as required to comply with wind load.

D. Bottom Bar: Manufacturer's standard continuous channel or tubular shape, either stainless-steel or aluminum extrusions to suit type of curtain slats.

1. Astragal: Provide a replaceable, adjustable, continuous, compressible gasket of flexible vinyl, rubber, or neoprene, between angles or fitted to shape, as a cushion bumper for interior door.
2. Provide motor-operated doors with combination bottom astragal and sensor edge.

E. Curtain Jamb Guides: Fabricate curtain jamb guides of steel angles, or channels and angles, with sufficient depth and strength to retain curtain, to allow curtain to operate smoothly, and to withstand loading. Build up units with not less than 3/16-inch thick, galvanized steel sections complying with ASTM A 36, and ASTM A 123. Slot bolt holes for guide adjustment. Provide removable stops on guides to prevent overtravel of curtain and a continuous bar for holding windlocks. Provide continuous integral wear strips to prevent metal-to-metal contact and minimize noise of travel and removable stops on guides to prevent overtravel of curtain.

F. Steel to be manufactured from 90% recycled material with a minimum of 50% post consumer content.

G. Units to be fire-rated where noted on door schedule

2.3 HOODS AND ACCESSORIES

A. Hood: Form to entirely enclose coiled curtain and operating mechanism at opening head and act as weatherseal. Contour to suit end brackets to which hood is attached. Roll and reinforce top and bottom edges for stiffness. Provide closed ends for surface-mounted hoods and fascia for any portion of between-jamb mounting projecting beyond wall face. Provide intermediate support brackets as required to prevent sag.

1. Fabricate steel hoods, for steel doors, of not less than 0.028-inch thick, hot-dip galvanized steel sheet with G90 zinc coating, complying with ASTM A 653.

2. Provide with internal baffle and weatherseal.

3. Shape: Round or square.

B. Integral Sills: Fabricate sills as integral part of frame assembly of same sheet metal, but not less than 0.078 inch thick.

C. Weatherseals: Provide replaceable, adjustable, continuous, compressible weather-stripping gaskets fitted to bottom and at top of exterior doors, unless otherwise indicated. At door head, use 1/8-inch thick, replaceable, continuous sheet secured to inside of curtain coil hood.

1. Provide motor-operated doors with combination bottom weatherseal and sensor edge.

2. In addition, provide replaceable, adjustable, continuous, flexible, 1/8-inch- thick seals of flexible vinyl, rubber, or neoprene at door jambs for a weathertight installation.

D. Push/Pull Handles: For push-up-operated or emergency-operated doors, provide galvanized steel lifting handles on each side of door.

1. Provide pull-down straps or pole hooks for doors more than 84 inches high.

E. Slide Bolt: Fabricate with side locking bolts to engage through slots in tracks for locking by padlock, located on both left and right jamb sides, operable from coil side.

F. Chain Lock Keeper: Suitable for padlock.

G. Where door unit is power operated, provide safety interlock switch to disengage power supply when door is locked.

2.4 COUNTERBALANCING MECHANISM

A. General: Counterbalance doors by means of adjustable-tension steel helical torsion spring, mounted around a steel shaft and contained in a spring barrel connected to door curtain with required barrel rings. Use grease-sealed bearings or self-lubricating graphite bearings for rotating members.

B. Counterbalance Barrel: Fabricate spring barrel of hot-formed, structural-quality, welded or seamless carbon-steel pipe, of sufficient diameter and wall thickness to support rolled-up curtain without distortion of slats and to limit barrel deflection to not more than 0.03 in./ft. of span under full load.

C. Provide spring balance of one or more oil-tempered, heat-treated steel helical torsion springs. Size springs to counterbalance weight of curtain, with uniform adjustment accessible from outside barrel. Provide cast-steel barrel plugs to secure ends of springs to barrel and shaft.

D. Fabricate torsion rod for counterbalance shaft of cold-rolled steel, sized to hold fixed spring ends and carry torsional load.

E. Brackets: Provide mounting brackets of manufacturer's standard design, either cast-iron or cold-rolled steel plate with bell-mouth guide groove for curtain.

2.5 FINISHES, GENERAL

A. General: Comply with NAAMM's "Metal Finishes Manual for Architectural and Metal Products" for recommendations for applying and designating finishes.

B. Appearance of Finished Work: Variations in appearance of abutting or adjacent pieces are acceptable if they are within one-half of the range of approved Samples. Noticeable variations in the same piece are not acceptable. Variations in appearance of other components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.

C. Finish to comply with the Department of Energy's Energy Star Compliance Rating.

2.6 STEEL AND GALVANIZED STEEL FINISHES

A. Factory Primer for Field Finish: Apply manufacturer's standard primer, compatible with field-applied finish according to coating manufacturer's written instructions for cleaning, pretreatment, application, and minimum dry film thickness.

1. Apply to ferrous surfaces except zinc-coated metal.

B. Powder-Coat-Applied Finish: Apply manufacturer's standard powder-coat-applied finish consisting of primer and topcoat(s) according to coating manufacturer's written instructions for cleaning, pretreatment, application, thermosetting, and minimum dry film thickness.

1. Color and Gloss: As selected byOwner from manufacturer's full range of colors and glosses.

2.7 MANUAL DOOR OPERATORS

A. Provide manual operators, unless electric door operators are indicated. When not shown, provide chain-hoist operator unit.

B. Push-up Operation: Design counterbalance mechanism so required lift or pull for door operation does not exceed 25 lbf.

C. Chain-Hoist Operator: Provide manual chain-hoist operator consisting of endless steel hand chain, chain pocket wheel and guard, and gear-reduction unit with a maximum 35-lbf effort for door operation. Provide alloy steel hand chain with chain holder secured to operator guide.

D. Crank-Hoist Operator: Provide crank-hoist operator consisting of crank and crank gearbox, steel crank drive shaft, and gear-reduction unit. Size gears to require no more than 35-lbf effort to turn crank. Fabricate gearbox to completely enclose operating mechanism and be oil tight. Provide manufacturer's standard crank-locking device.

1. Provide manufacturer's standard removable operating arm for each crank-gear unit.

2.8 ELECTRIC DOOR OPERATORS

A. General: Provide electric door operator assembly of size and capacity recommended and provided by door manufacturer for door and operational life specified, with electric motor and factory-prewired motor controls, starter, gear-reduction unit, solenoid-operated brake, clutch, remote-control stations, control devices, integral gearing for locking door, and accessories required for proper operation.

B. Comply with NFPA 70.

C. Disconnect Device: Provide hand-operated disconnect or mechanism for automatically engaging sprocket-chain operator and releasing brake for emergency manual operation while disconnecting motor, without affecting timing of limit switch. Mount disconnect and operator so they are accessible from floor level. Include interlock device to automatically prevent motor from operating when emergency operator is engaged.

D. Design operator so motor may be removed without disturbing limit-switch adjustment and without affecting emergency auxiliary operator.

E. Provide control equipment complying with NEMA ICS 1, NEMA ICS 2, and NEMA ICS 6, with NFPA 70 Class 2 control circuit, maximum 24-V, ac or dc.

F. Door-Operator Type: Provide wall-, hood-, or bracket-mounted, jackshaft, gear-head-type door operator unit consisting of electric motor, enclosed worm-gear running-in-oil primary drive, chain and sprocket secondary drive, and quick disconnect-release for manual operation.

G. Electric Motors: Provide high-starting torque, reversible, continuous-duty, Class A insulated, electric motors, complying with NEMA MG 1, with overload protection, sized to start, accelerate, and operate door in either direction, from any position, at not less than 2/3 fps or more than 1 fps, without exceeding nameplate ratings or considering service factor.

1. Type: Polyphase, medium-induction type.
2. Service Factor: According to NEMA MG 1, unless otherwise indicated.

3. Coordinate wiring requirements and electric characteristics of motors with building electrical system.
4. Provide open dripproof-type motor, and controller with NEMA ICS 6, Type 1 enclosure.
5. Provide totally enclosed, nonventilated or fan-cooled motors, fitted with plugged drain, and controller with NEMA ICS 6, Type 4 enclosure where indicated.

H. Remote-Control Station: Provide momentary-contact, 3-button control station with push-button controls labeled "Open," "Close," and "Stop."

1. Provide interior units, full-guarded, surface-mounted, heavy-duty type, with general-purpose NEMA ICS 6, Type 1 enclosure.
2. Provide exterior units, full-guarded, standard-duty, surface-mounted, weatherproof type, NEMA ICS 6, Type 4 enclosure, key operated.
3. One per door.

I. Obstruction Detection Device: Provide each motorized door with indicated external automatic safety sensor able to protect full width of door opening. Activation of sensor immediately stops and reverses downward door travel.

1. Sensor Edge: Provide each motorized door with an automatic safety sensor edge, located within astragal or weather stripping mounted to bottom bar. Contact with sensor immediately stops and reverses downward door travel. Connect to control circuit using manufacturer's standard take-up reel or self-coiling cable.

a. Provide electrically actuated automatic bottom bar.

1) Self-Monitoring Type: Provide self-monitoring, 4-wire configured device.

J. Limit Switches: Provide adjustable switches, interlocked with motor controls and set to automatically stop door at fully opened and fully closed positions.

K. Provide electric operators with ADA-compliant audible alarm and visual indicator lights.

L. Radio Control: Provide radio control system consisting of the following:

1. 3-channel universal coaxial receiver to open, close, and stop door, 1 per operator.
2. Multifunction remote control.
3. Remote antenna mounting kit.

PART 3 - EXECUTION

3.1 INSTALLATION

A. General: Install door and operating equipment complete with necessary hardware, jamb and head mold strips, anchors, inserts, hangers, and equipment supports according to Shop Drawings, manufacturer's written instructions, and as specified.

3.2 ADJUSTING

A. Lubricate bearings and sliding parts; adjust doors to operate easily, free from warp, twist, or distortion and fitting weathertight for entire perimeter.

3.3 DEMONSTRATION

A. Startup Services: Engage a factory-authorized service representative to perform startup services and to train Owner's maintenance personnel as specified below:

1. Test and adjust controls and safeties. Replace damaged and malfunctioning controls and equipment.

   a. Test door closing when activated by detector or alarm connected fire-release system. Reset door-closing mechanism after successful test.

2. Train Owner's maintenance personnel on procedures and schedules related to startup and shutdown, troubleshooting, servicing, preventive maintenance, and procedures for testing and resetting release devices.

3. Review data in the maintenance manuals. Refer to Division 1 Section "Contract Closeout."

4. Review data in the maintenance manuals. Refer to Division 1 Section "Operation and Maintenance Data."

5. Schedule training with Owner with at least 7 days' advance notice.

END OF SECTION 08331

SECTION 08520 - ALUMINUM WINDOWS

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Extruded aluminum windows with fixed and operating sash; glass site glazed.

B. Operating hardware and insect screens.

1.2 RELATED SECTIONS

A. Section 04100 – Unit Masonry: Openings in masonry walls.

B. Section 07920 - Joint Sealers: Perimeter sealant and back-up materials.

C. Section 08800 - Glazing.

1.3 REFERENCES

A. AAMA 101 - Specifications for Aluminum Prime Windows and Sliding Glass Doors.

B. AAMA 603.8 - Performance Requirements and Test Procedures for Pigmented Organic Coatings on Extruded Aluminum.

C. AAMA 605.2 - Specification for High Performance Organic Coatings on Architectural Extrusions and Panels.

D. AAMA 606.1 - Specifications and Inspection Methods for Integral Color Anodic Finishes for Architectural Aluminum.

E. AAMA 607.1 - Specifications and Inspection Methods for Clear Anodic Finishes for Architectural Aluminum.

F. AAMA 608.1 - Specification and Inspection Methods for Electrolytically Deposited Color Anodic Finishes for Architectural Aluminum.

G. ASTM A386 - Zinc Coating (Hot Dip) on Assembled Steel Products.

H. ASTM B209 - Aluminum and Aluminum-Alloy Sheet and Plate.

I. ASTM B221 - Aluminum-Alloy Extruded Bar, Rod, Wire, Shape, and Tube.

J. ASTM E283 - Rate of Air Leakage Through Exterior Windows, Curtain Walls, and Doors.

K. ASTM E330 - Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference.

L. ASTM E331 - Test Method for Water Penetration of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference.

M. FS L-S-125 - Screening, Insect, Nonmetallic.

N. FS RR-W-365 - Wire Fabric (Insect Screening).

O. SSPC - Steel Structures Painting Manual.

1.4 SYSTEM DESCRIPTION

A. Windows: Thermally broken, tubular aluminum sections, shop fabricated, factory pre-finished, vision glass, related flashings, anchorage and attachment devices.

B. Configuration: Fixed non-operable and outward or inward projecting bottom, as indicated on drawings.

C. Glazing: Exterior, Insulated.

1.5 PERFORMANCE REQUIREMENTS

A. Design and size components to withstand dead and live loads caused by positive and negative wind pressure acting normal to plane of wall as calculated in accordance with North Carolina Building code and as measured in accordance with ASTM E330.

1. As calculated in accordance with North Carolina Building code, refer to Structural documents for design requirements.

B. Limit member deflection to flexure limit of glass or 1/200; with full recovery of glazing materials, whichever is less.

C. System to accommodate, without damage to components or deterioration of seals, movement between window and perimeter framing, deflection of lintel.

D. Limit air leakage through assembly to 0.11 cfm/min/linear foot of crack length, measured at a reference differential pressure across assembly of 6.24 psf (50 mph equivalent) as measured in accordance with ASTM E283.

E. Water Leakage: None, when measured in accordance with ASTM E331 with a test pressure difference of 8.25 lb/sq ft at a water flow rate equal to 5 gals of water per hour per s.f. of window area.

F. Maintain continuous air and vapor barrier throughout assembly, primarily in line with inside pane of glass and heel bead of glazing compound.

1. System Design U-Factor 0.45; SHGC 0.33

G. Drain water entering joints, condensation occurring in glazing channels, or migrating moisture occurring within system, to the exterior by a weep drainage network.

1.6 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Shop Drawings: Indicate opening dimensions, framed opening tolerances, affected related work and installation requirements.

C. Product Data: Provide component dimensions, anchorage and fasteners, glass and internal drainage details.

1.7 QUALIFICATIONS

A. Manufacturer: Company specializing in manufacturing commercial aluminum windows with minimum three years documented experience.

1.8 DELIVERY, STORAGE, AND HANDLING

A. Deliver, store, protect and handle products to site under provisions of Section 01600.

B. Protect pre-finished aluminum surfaces with wrapping or stripable coating. Do not use adhesive papers or sprayed coatings which bond when exposed to sunlight or weather.

1.9 ENVIRONMENTAL REQUIREMENTS

A. Do not install sealants when ambient temperature is less than 40 degrees F.

B. Maintain this minimum temperature during and after installation of sealants.

1.10 FIELD MEASUREMENTS

A. Verify that field measurements are as indicated on shop drawings.

B. Verify that field measurements are as instructed by the manufacturer.

1.11 WARRANTY

A. Manufacturer's standard form in which manufacturer agrees to repair or replace aluminum windows that fail in materials or workmanship within specified warranty period. Included is failure to meet performance requirements; structural failures including excessive deflection; water leakage, air infiltration or condensation; deterioration of metals, finishes and other components.

1. Installation Warranty: Five years from date of Substantial Completion.
2. Metal Finishes Warranty: Fifteen years from date of Substantial Completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. Acceptable manufacturers: Obtain though one source from single manufacturer.

B. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 PRODUCTS

A. Thermally Broken, Fixed Window
   1. Product Attributes:
      a. Framing Member Profile: 2-1/4" (57.15 mm) Deep Master Frame
      b. Grade Designation: F-HC100, F-AW100

2.3 MATERIALS

A. Extruded Aluminum: ASTM B221: Alloy and temper as recommended by window manufacturer for strength, corrosion resistance and finish application, but not less than 22,000 psi ultimate tensile strength a yield strength of 16,000 psi.

B. All frame members shall have minimum wall thickness of 0.090" and shall provide the structural strength sufficient to meet the specified performance requirements.

C. Steel Sections: Profiled to suit mullion sections.

D. Fasteners: Non-magnetic Stainless steel or aluminum.

E. Touch-Up Primer for Galvanized Steel Surfaces: SSPC 20, zinc rich type.

2.4 COMPONENTS

A. Frames: 2 1/4 inch deep profile; thermally broken with interior portion of frame insulated from exterior portion, applied aluminum glass stops with epdm glazing wedge.

B. Sills: extruded aluminum; sloped for positive wash; fit under sash to 1/2 inch beyond wall face; one piece full width of opening.

C. Optional Exterior Panning and Interior Trims: Extruded aluminum, 6063-T6 alloy and temper, extruded to profiles and details indicated. Seal exterior joints with manufacturer's standard sealant to assure water-tight joints.

D. Weather Stripping: Resilient PVC; permanently resilient, profiled to effect weather seal.

E. Glazing Gaskets: Standard glazing gaskets shall be a dry glazed elastomer in accordance with ASTM C509-91.

F. Glazing Sealant: Glazing material shall be a 100 percent silicone, neutral-cure sealant in accordance with AAMA 805.2-94, Group A.

G. Fasteners: 300 Series Stainless steel.

2.5 GLASS AND GLAZING MATERIALS

A. Glass and Glazing Materials: As specified in Section 08800 of Types described below:

1. Glass in Exterior Lights: Tinted, insulated glass with emissivity coating.

2.6 SEALANT MATERIALS

A. Sealant and Backing Materials: As specified in Section 07900 of Types described below.

B. Perimeter Sealant: Modified Polyurethane.

C. Sealant Used Within System (Not Used for Glazing): Elastomeric, permanently elastic, non-shrinking and non-migrating as recommended by window manufacturer

2.7 FABRICATION

A. Fabricate components with minimum clearances and shim spacing around perimeter of assembly, yet enabling installation and dynamic movement of perimeter seal.

B. Accurately fit and secure joints and corners. Make joints flush, hairline, and weatherproof.

C. Prepare components to receive anchor devices. Fabricate anchors.

D. Arrange fasteners and attachments to ensure concealment from view.

E. Prepare components with internal reinforcement for operating hardware.

F. Provide internal reinforcement in mullions with galvanized steel members to maintain rigidity.

G. Permit internal drainage weep holes and channels to migrate moisture to exterior. Provide internal drainage of glazing spaces to exterior through weep holes.

H. Assemble insect screens of rolled aluminum rectangular sections. Miter and reinforced frame corners. Fit mesh taught in frame into frame and secured. Fit frame with four spring loaded steel pin retainers.

I. Double weatherstrip operable units.

J. Shop glaze window units.

2.8 FINISHES

A. Exposed Aluminum Surfaces: Conforming to AAMA 605.2-92 Organic Coating. Fluropon. durable exterior fluoropolymer coating containing 70% PVDF resins and solar reflective pigments. Color to be selected from manufacturers standard offering.

B. Concealed Steel Items: Galvanized in accordance with ASTM A386 to 2.0 oz/sq ft.

C. Apply one coat of bituminous paint to concealed aluminum and steel surfaces in contact with cementitious or dissimilar materials.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verify site opening conditions under.

B. Verify wall openings and adjoining air and vapor seal materials are ready to receive work of this Section.

3.2 INSTALLATION

A. Install window frames, glass and glazing and hardware in accordance with manufacturers instructions.

B. Attach window frame and shims to perimeter opening to accommodate construction tolerances and other irregularities.

C. Align window plumb and level, free of warp or twist. Maintain dimensional tolerances, aligning with adjacent work.

D. Install sill.

E. Pack fibrous insulation in shim spaces at perimeter of assembly to maintain continuity of thermal barrier.

F. Coordinate attachment and seal of perimeter air and vapor barrier materials.

G. Install operating hardware.

H. Install perimeter sealant to method required to achieve performance criteria.

3.3 TOLERANCES

A. Maximum Variation from Level or Plumb: 0.06 inches every 3 ft non-cumulative or 0.5 inches per 100 ft, whichever is less.

3.4 ADJUSTING

A. Adjust work to provide tight fit at contact points and at weather stripping.

B. Adjust operating hardware for smooth operation and weather tight closure.

3.5 CLEANING

A. Clean glass promptly after installation of windows.

B. Remove protective material from pre-finished aluminum surfaces.

C. Wash down surfaces with a solution of mild detergent in warm water, applied with soft, clean wiping cloths. Take care to remove dirt from corners. Wipe surfaces clean.

D. Remove excess sealant by moderate use of mineral spirits or other solvent acceptable to sealant manufacturer.

END OF SECTION 08520

SECTION 08800 - GLAZING

PART 1 - GENERAL

1.1 Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 APPLICABLE PUBLICATIONS

A. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text basic designation only.

1. Consumer Products Safety Commission (CPSC) Standard:

a) 16 CFR Safety Standard for Architectural Glazing
b) Part 1201 Materials, January 1977

2. Flat Glass Marketing Association (FGMA) Publications:

a) Glazing Manual (1974 Edition)
b) Glazing Sealing Systems Manual (First Edition, 1970)

PART 2 - MATERIALS

2.1 MANUFACTURER

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 GLASS

A. In all doors provide safety glazing material conforming to CPSC 16 CFR Part 1201.

B. Plate or Float Glass: Type I, Class I, Quality q3, 13/64 inch thick. Provide plate or float glass for all exterior window glazing.

C. Tempered (Safety Glass): Condition C (other than coated glass), kind FT (fully tempered), complying with ANSI Z97.1 and "Federal Consumer Product Safety Commission Standard 16 CFR 1201 C II.

D. Insulated Glass: Factory fabricated with two panes of glass having a hermetically sealed dehydrated air space, complying with ASTM E774 Class B.

E. Wire Glass: Shall be listed and labeled by Underwriters Laboratories.

F. Fire Rated Glazing: 90 Minutes, unless noted otherwise on drawings.

2.3 Glass Types and Usage

A. for Exterior Doors, Sidelights, Windows and Transoms,: 1 inch insulated, tempered U.N.O. 1 inch thick double-pane insulated with glass to elastomer edge seal. Consisting of: Outer pane 1/4 inch thick tinted solar cool grey on #2 surface; Inner pane 1/4 inch thick with low-e coating on the #3 surface, Purge inner pane air space with dry hermetic air.

1. U-factor U-0.45
2. Maximum SHGC 0.33

B. Glass for Interior Fire Rated Doors and Windows SuperLite II-XL 90; 90-Minute rated NOTE: Glazing shall be installed in a rated framing system meeting ASTM E119, ASTM E163, NFPA 251, NFPA 257, UL 9, UL 263, UBC 7-1, UBC 7-4, CAN4-S106, ASTM 152, NFPA 252, UL 10C, UBC 7-2 or CAN4-S104.

C. Glass for Interior Non-Fire Rated Doors and Windows: 1/4 inch thick, tempered safety glass, U.N.O. on drawings

D. Glass for Interior Hollow Metal and Aluminum Doors and Windows: 1/4 inch thick, tempered safety glass, U.N.O. on drawings

E. Glass for Exterior Aluminum Storefront and Windows: 1 inch insulated, tempered U.N.O. Use PPG solar cool gray. 1 inch thick double-pane insulated with glass to elastomer edge seal. Consisting of: Outer pane 1/4 inch thick tinted solar cool grey; Inner pane 1/4 inch thick with low-e coating on the #3 surface, 10-percent reflectance on #2 surface. Purge inner pane air space with dry hermetic air.

2.4 SETTING MATERIALS

A. Provide setting materials of the types required for the applicable settings method specified in the FGMA Glazing Sealing Systems Manual, unless specified otherwise herein. Do not use metal sash putty, nonskinning compounds, non-resilient preformed sealers or impregnated preformed gaskets. Materials which will be exposed to view and unpainted shall be gray or neutral color.

B. Glazing Compounds:

1. Glazing compound suitable for back bedding and glazing, not for Channel or Stop Glazing. Use for face glazing metal sash.

C. Elastomeric Sealing:

1. Use for channel or stop glazing metal sash. Sealant shall be chemically compatible with setting blocks, and sealing tapes.

D. Preformed Channels:

1. Neoprene, vinyl, or rubber, NAAMM SG-1, as recommended by the glass manufacturer for the particular condition.

E. Sealing Tapes:

1. Preformed, semisolid, polymeric based material of proper size and compressibility for the particular condition. Use only where glazing rabbet is designed for tape and tape is recommended by the glass or sealant manufacture. Provide spacer shims for use with compressible tapes.

F. Setting Blocks and Edge Blocks:

1. Lead, or neoprene of 70 to 90 shore "A" durometer hardness, chemically compatible with sealants used, and of sizes recommended by the glass manufacturer.

G. Accessories:

1. As required to provide a complete installation, including glazing points, clips, shims, angles, beads, and spacer strips. Provide noncorroding metal accessories. Provide primer-sealers and cleaners as recommended by the glass and sealant manufacturers.

PART 3 - INSTALLATION

3.1 PRECAUTIONS AND PROCEDURES

A. Determine the sizes to provide the required clearances by measuring the actual opening to receive the glass. Grind smooth all edges of glass that will be exposed in finish work. Leave labels in place until the installation is approved, except remove applied labels on heat-absorbing glass and on insulating glass units as soon as glass is installed. Securely fix movable items or keep in a closed and locked position until glazing compound has thoroughly set.

3.2 GLASS SETTING

A. Items to be glazed shall be either shop or field glazed using glass of the quality and thickness specified or indicated. Preparation and glazing, unless otherwise specified or approved, shall conform to applicable recommendations in the FGMA Glazing Manual and Glazing Sealing System Manual. Handle and install glazing materials in accordance with the manufacturer's instructions. Use beads or stops which are furnished with the items to be glazed to secure the glass in place.

3.3 CLEANING

A. Thoroughly clean glass surfaces and remove labels, paint spots, putty, and other defacement. Glass shall be clean at the time the work is accepted.

END OF SECTION 08800

SECTION 09250 - GYPSUM BOARD SYSTEMS

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Metal stud wall framing.

B. Metal channel ceiling framing.

C. Acoustical insulation.

D. Gypsum board.

E. Cementitious backer board.

F. Taped and sanded joint treatment.

1.2 PRODUCTS INSTALLED BUT NOT FURNISHED UNDER THIS SECTION

A. Section 10800 - Toilet and Bath Accessories and required blocking:

1.3 RELATED SECTIONS

A. Section 06100 - Rough Carpentry.

B. Section 08100 - Standard Steel Frames.

C. Section 09900 - Painting: Surface finish.

1.4 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Provide compliance with all listed standards.

C. Provide certification of gypsum board paper facing recycled content.

D. Certification of recycled content of gypsum board facing and metal framing materials.

1.5 REFERENCES

A. ASTM C36 - Gypsum Wallboard.

B. ASTM C79 - Gypsum Sheathing Board.

C. ASTM C442 - Gypsum Backing Board and Core Board.

D. ASTM C475 - Joint Treatment Materials for Gypsum Wallboard Construction.

E. ASTM C557 - Adhesive for Fastening Gypsum Wallboard to Wood Framing.

F. ASTM C645 - Non-Load (Axial) Bearing Steel Studs, Runners (Track), and Rigid Furring Channels for Screw Application of Gypsum Board.

G. ASTM C665 - Mineral Fiber Blanket Thermal Insulation for Light Frame Construction and Manufactured Housing.

H. ASTM C754 - Installation of Framing Members to Receive Screw Attached Gypsum Wallboard, Backing Board, or Water Resistant Backing Board.

I. ASTM C840 - Application and Finishing of Gypsum Board.

J. ASTM C1002 - Steel Drill Screws for the Application of Gypsum Board.

K. ASTM E90 - Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions.

L. GA-201 - Gypsum Board for Walls and Ceilings.

M. GA-216 - Recommended Specifications for the Application and Finishing of Gypsum Board.

1.6 SYSTEM DESCRIPTION

A. Metal stud and gypsum partition walls.

B. Resilient channel/Furring and gypsum on CMU walls.

C. Gypsum partition walls on wood studs.

D. Gypsum ceiling on wood studs.

1.7 QUALITY ASSURANCE

A. Perform Work in accordance with ASTM C840.

1.8 QUALIFICATIONS

A. Applicator: Company specializing in performing the work of this section with minimum 5 years documented experience.

PART 2 - PRODUCTS

2.1 MANUFACTURERS - GYPSUM BOARD SYSTEM

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 FRAMING MATERIALS

A. Studs and Tracks: ASTM C645; G90; galvanized sheet steel. C or SJ Shapes, 22 MSG studs, double 20 MSG at hinges, strikes and head; 20 gauge unless noted otherwise.

B. Furring, Framing and Accessories: ASTM C645. GA-216 and GA-600. 2" Z-furring, 20 gauge; G90.

C. Fasteners: ASTM C1002.

D. Anchorage to Substrate: Tie wire, nails, screws and other metal supports, of type and size to suit application; to rigidly secure materials in place.

E. Materials to be fabricated from 100% recycled content material with 80% post consumer content.

2.3 GYPSUM BOARD MATERIALS

A. Standard Gypsum Board Type 'X': ASTM C36; 5/8 inch thick, maximum permissible length; ends square cut, tapered edges.

B. Glass Mat Interior Gypsum Board; Moisture and Glass Mat Fire Resistant Gypsum Board: ASTM C630; 5/8 inch thick, paperless; ends square cut, tapered edges. Glass-Mat, Water-Resistant Paperless Gypsum Board with fiberglass mat laminated to both sides. Specifically designed for interior use. Install at ceilings and as indicated on drawings. Use maximum permissible length

1. FiberGlass-Mat Faced Interior Gypsum Board: ASTM C 1658/C 1658M
2. Surfacing: Coated fiberglass mat on face, back, and long edges.
3. Core: 5/8 inch (15.9 mm),
4. Type X.
5. Edges: Tapered.
6. Flexural Strength, Parallel (ASTM C473, ASTM C1658): Not less than 100 lbf.
7. Flexural Strength, Perpendicular (ASTM C473, ASTM C1658): Not less than 140 lbf.
8. R-Value (ASTM C518): Not less than 0.67.
9. Nail Pull Resistance (ASTM C473, ASTM C1658): Not less than 90 lbf.
10. Humidified Deflection (ASTM C473, ASTM C1658): Not more than 1/8 inch.
11. Hardness, Core, Edges, and Ends (ASTM C473, ASTM C1396): Not less than 15.
12. Water Absorption (ASTM C630, ASTM C1396, ASTM C1658): Less than 5 percent of weight.
13. Mold Resistance (ASTM D3273): 10, in a test as manufactured.
14. Microbial Resistance (ASTM D6329, EPA 12-week protocol): Will not support microbial growth.

2.4 ACCESSORIES

A. Acoustical Insulation: ASTM C665; preformed glass fiber, friction fit type, unfaced, 3-1/2 inch. Applied in gypsum stud partitions above CMU walls surrounding Conference Room 117.

B. Corner Beads: Metal.

C. Corner Beads at Windows and Doors: Vinyl

D. Edge Trim: GA 201 and GA 216; Type L bead.

E. Joint Materials: ASTM C475; GA 201 and GA 216; reinforcing tape, joint compound, adhesive, and water.

F. Fasteners: ASTM C1002, Type S12.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verify that site conditions are ready to receive work and opening dimensions are as indicated on shop drawings.

3.2 METAL STUD INSTALLATION

A. Install studs in accordance with ASTM C754. GA-201, GA-216 and GA-600.

B. Refer to Drawings for indication of partitions extending to finished ceiling only and for partitions extending through the ceiling to the structure above. Maintain clearance under structural building members to avoid deflection transfer to studs. Provide extended leg ceiling runners.

C. Door Opening Framing: Install double studs at door frame jambs.

D. Blocking: Bolt or screw wood blocking to studs. Install blocking for support of plumbing fixtures, toilet partitions, wall cabinets, toilet accessories, and hardware.

3.3 WALL FURRING INSTALLATION

A. Erect resilient wall furring for direct attachment to masonry walls.

B. Erect furring channels vertically; space maximum 16 inches on center (max), not more than 4 inches from floor and ceiling lines. Secure in place on alternate channel flanges at maximum 16 inches on center.

3.4 GYPSUM BOARD INSTALLATION

A. Install gypsum board in accordance with GA-201, GA-216 and GA-600.

B. Erect single layer standard gypsum board horizontally with ends and edges occurring over firm bearing.

C. Use screws when fastening gypsum board to metal furring or framing.

D. Place control joints consistent with lines of building spaces.

E. Place corner beads at external corners. Use longest practical length. Place edge trim where gypsum board abuts dissimilar materials.

F. Install acoustical insulation as recommended by the manufacturer to completely fill wall cavities where sound protected partitions are indicated on drawings.

G. Install latex sealant as specified in 07920 at gypsum board perimeter.

1. Seal all penetrations by conduit, pipe, duct work, or rough-in boxes.

3.5 JOINT TREATMENT

A. Tape, fill, and sand exposed joints, edges, and corners to produce smooth surface ready to receive finishes.

B. Feather coats onto adjoining surfaces so that camber is maximum 1/32 inch.

C. Taping, filling, and sanding is not required at surfaces behind adhesive applied ceramic tile.

D. Locate exposed end-butt joints as far from center of walls and ceilings as possible, and stagger not less than 24 inches in alternate courses of board.

E. Install ceiling boards across framing in the manner which minimizes the number of end-butt joints, and which avoids end joints in the central area of each ceiling. Stagger end joints at least 24 inches.

F. Install wall/partition boards in manner which minimizes the number of end-butt joints or avoids them entirely where possible.

G. Install exposed gypsum board with face side out. Do not install imperfect, damaged or damp boards. Butt boards together for a light contact at edges and ends with not more than 1/16 inch open space between boards. Do not force into place.

H. Located either edge or end joints over supports. Position boards so that like edges abut, tapered edges against tapered edges and mill-cut or field-cut ends against mill-cut or field-cut ends. Do not place tapered edges against cut edges or ends. Stagger vertical joints over different studs on opposite sides of partitions.

I. Attach gypsum board to steel studs so that leading edge or end of each board is attached to open (unsupported) edge of stud flange first.

J. Attach gypsum board to supplementary framing and blocking provided for additional support at openings and cutouts.

K. Form control joints and expansion joints at locations indicated, with space between edges of boards, prepared to receive trim accessories.

1. Joints to be located in compliance with manufacturers recommendations as indicated on drawings.

L. Isolate perimeter of non-load-bearing drywall partitions at structural abutments. Provide 1/4" to 1/2" space and trim edge with "U" bead edge trim.

M. Where interior partitions are acoustically protected, seal construction at perimeters, control and expansion joints, openings and penetrations with a continuous bead of acoustical sealant including a bead at both faces of partitions. Comply with ASTM C 919 and manufacturer's

recommendations for location of edge trim and close off sound-flanking paths around or through construction, including sealing of partitions above acoustical panel and gypsum drywall ceilings.

1. "Opening and penetrations" as discussed above shall be defined to include (but shall not be limited to) duct penetrations, conduit penetrations, pipe penetrations, and electrical panel and box openings.

N. Space fasteners in gypsum boards in accordance with referenced gypsum board application and finishing standard and manufacturer's recommendations.

3.6 TOLERANCES

A. Maximum Variation of Finished Gypsum Board Surface from True Flatness: 1/8 inch in 10 feet in any direction.

3.7 FINISHING

A. General: Apply joint treatment at gypsum board joints (both directions), flanges of corner bead, edge trim, and control joints; penetrations; fastener heads, surface defects and elsewhere as required to prepare work for decoration.

B. Levels of Finish: The following levels of finish are established as a guide for specific final finishes.

1. Level 0: No taping, finishing, or accessories required. This level of finish shall be used in temporary construction only.

2. Level 1: Joints and interior angles shall have tape embedded in joint compound. Surface shall be free of excess joint compound. Tool marks and ridges are acceptable. This finish level shall be used in plenum areas above ceilings, in attics, in areas where the assembly is concealed.

3. Level 2: Joints and interior angles shall have tape embedded in joint compound and one separate coat of joint compound applied over joints, angles, fastener heads, and accessories. Surface shall be free of excess joint compound. Tool marks and ridges are acceptable. This finish level shall be used where water resistant gypsum backing board (ASTM C630) is used as a substrate for tile only.

4. Level 3: Joints and interior angles shall have tape embedded in joint compound and two separate coats of joint compound applied over joints, angles, fastener heads, and accessories. Joint compound shall be smooth and free of tool marks and ridges. Note: It is recommended that the prepared surface be coated with a primer/sealer prior to the application of final finishes. See painting/wall covering specification in this regard.

5. Level 4: Joints and interior angles shall have tape embedded in joint compound and three separate coats of joint compound applied over joints, angles, fastener heads, and accessories. Joint compound shall be smooth and free of tool marks and ridges. Note: Prepare surface to be coated with a primer/sealer prior to the application of final finishes.

6. Level 5: Joints and interior angles shall have tape embedded in joint compound and three separate coats of joint compound applied over joints, angles, fastener heads, and accessories. A thin skim coat of joint compound, or a material manufactured especially

for this purpose, shall be applied to the entire surface. The surface shall be smooth and free of tool marks and ridges.

7. Schedule:
   a. Typical Wall: Level 3 finish
   b. Typical Ceiling: Level 4 finish
   c. Typical Concealed Spaces: Level 2 finish.

8. Note: Prepare surface to be coated with a primer/sealer prior to the application of finish paint. This finish level shall be used where gloss, semi-gloss, enamel, or nontextured flat paints are specified.

C. Apply joint tape at joints between gypsum boards, except where trim accessories are indicated.

END OF SECTION 09250

SECTION 09300 - TILE

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. The Drawings and provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 1, General Requirements, are included as a part of this Section as though bound herein.

1.2 SUMMARY

A. Definition: Tile includes ceramic surfacing units made from clay or other ceramic materials.

B. Extent of tile work is indicated on drawings and schedules.

C. Types of tile work in this section include the following:

1. Glazed wall tile; thin-set application.
2. Floor tile installation; thin-set application.
3. Floor tile installation; sloped mortar bed with thin-set application.
4. Marble thresholds.

1.3 QUALITY ASSURANCE

A. Source of Materials: Provide materials obtained from one source for each type and color of tile, grout and setting materials.

1.4 REFERENCES

A. ANSI A108.02 - General Requirements: Materials, Environmental, & Workmanship.

B. ANSI A108.1A - Installation of ceramic tile in the wet-set method, with Portland cement mortar.

C. ANSI A108.1B - Installation of ceramic tile on a cured Portland cement mortar setting bed with dry-set or latex-Portland cement mortar.

D. ANSI A108.4 - Installation of Ceramic Tile with Organic Adhesives or Water-Cleanable Epoxy Adhesive.

E. ANSI A108.8 - Installation of ceramic tile with chemical-resistant furan resin mortar and grout.

F. ANSI A108.9: - Installation of ceramic tile with modified epoxy emulsion mortar/grout.

G. ANSI A108.10 - Installation of Grout in Tile Work.

H. ANSI A108.12 – Installation of ceramic tile with EGP (exterior glue plywood) latex-Portland cement mortar.

I. ANSI A108.13 - Installation of Waterproof Membranes for Thin-Set Tile and Stone.

J. ANSI A108.14 – Installation of Paper-Faced glass mosaic tile.

K. ANSI A108.15 – Installation of Paper-Faced glass mosaic tile – Alternate Method.

L. ANSI A108.16 – Proposal for installation of paper-faced, back-mounted, edge-mounted, or clear film face-mounted glass mosaic tile.

M. ANSI A118.10 - Waterproof membranes for Thin-Set Tile and Stone.

N. ANSI A118.11 - EGP (Exterior Glue Plywood) latex-Portland cement mortar.

O. ANSI A118.12 – Crack Isolation Membranes.

P. TCA - Handbook for Ceramic Tile Installation.

Q. U.S. Product Standard PS 1-83 for Construction and Industrial Plywood.

1.5 SUBMITTALS

A. Product Data: Submit manufacturer's technical information and installation instructions for materials required, except bulk materials.

B. Shop Drawings: Submit shop drawings indicating tile patterns and locations and widths of control, contraction and expansion joints in tile surfaces.

C. Samples for Verification Purposes: Submit the following:

1. Samples for each type of tile and for each color and texture required, not less than two of each color-way on hardboard backing..

2. Full size samples for each type of trim, accessory and for each color.

3. Six inch (6") long samples of stone thresholds.

D. Certification: Furnish Master Grade Certificates for each shipment and type of tile, signed by manufacturer and Installer.

1.5 DELIVERY, STORAGE, AND HANDLING

A. Deliver and store packaged materials in original containers with seals unbroken and labels intact until time of use. Prevent damage or contamination to materials by water, freezing, foreign matter or other causes.

1.6 PROJECT CONDITIONS

A. Maintain environmental conditions and protect work during and after installation to comply with referenced standards and manufacturer's printed recommendations.

B. Vent temporary heaters to exterior to prevent damage to tile work from carbon dioxide buildup.

C. Maintain temperatures at not less than 50□ F (10□.C) in tiled areas during installation and for 7 days after completion, unless higher temperatures are required by referenced installation standard or manufacturer's instructions.

PART 2 - PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 PRODUCTS, GENERAL

A. ANSI Standard for Ceramic Tile: Comply with ANSI A137.1 "American National Standard Specifications for Ceramic Tile" for types and grades of tile indicated.

1. Furnish tile complying with "Standard Grade" requirements unless otherwise indicated.
2. Furnish Floor tile meeting a Coefficient of Friction greater than or equal to 0.60. Include abrasive texture when available as product option.

B. ANSI Standard for Tile Installation Materials: Comply with ANSI standard referenced with products and materials indicated for setting and grouting.

C. ANSI A118.12 – Crack Isolation Membranes

D. Colors, Textures and Patterns: For tile, grout and other products requiring selection of colors, surface textures or other appearance characteristics, provide products to match characteristics indicated or, if not otherwise indicated, as selected by Architect from manufacturer's full range of colors, textures and patterns for prodcust of type indicated. Color Group 1, 1-color pattern, basis of design

1. Provide tile trim and accessories which match color and finish of adjoining flat tile.

D. Mounting: Where tile is indicated for installation in wet areas, do not use back- or edge-mounted tile assemblies unless tile manufacturer specifies that this type of mounting is suitable for these kinds of use and has been successfully used on other projects.

2.3 TILE PRODUCTS

A. Porcelin Floor Tile: Provide factory-mounted flat tile complying with the following requirements:

1. Type: Porcelain Ceramic

2. Wearing Surface: Wet C.O.F. >0.60; Dry C.O.F. >0.65
3. Breaking Strength >250 lbs.
4. Nominal Facial Dimensions: 18" x 18".
5. Nominal Thickness: 3/8".
6. Color Goup 1, Field Tile one color pattern. Cross-cut and vein-cut stone graphic imaged pattern virtually indistinguishable from natural stone
7. Color Family : Browns / Tans
8. Microban Antimicrobial Protection Infused with Microban® Antimicrobial Technology (Microban), which inhibits the growth of stain- and odor-causing bacteria on the surface of the tile
9. 3" x 12" bullnose trim

B. Semi-gloss Glazed Wall Tile: Provide flat tile complying with the following requirements:

1. Type: Porcelain Ceramic for wall and backsplash use.
2. Breaking Strength 100-230 lbs.
3. Nominal Facial Dimensions: 3" x 6"
4. Nominal Thickness: 5/16"
5. Face: Plain with cushion edge.
6. Glazed semi-gloss finish
7. Grout Joint:1/16
8. Bullnose and specialty trim as indicated on project drawings.
9. Color Group 1, one color pattern. White
10. Install full height on wet walls.

C. Trim Units: Provide tile trim units to match characteristics of adjoining flat tile and to comply with following requirements:

1. Size: Provide tile units to match adjoining flat wall tile
2. Base for Portland Cement Mortar Installations: Coved.
3. Wainscot Cap for Latex Portland Cement Mortar Installations: Bullnose Cap.
4. External Corners for Latex Portland Cement Mortar Installations: Bullnose shape with a radius of not less than 3/4" unless otherwise indicated.
5. Internal Corners: Field-butted square (or coved) corners, except use coved base and cap angle pieces designed to member with stretcher shapes.
6. Accessories for Glazed Wall Tile: Provide Manufacturer's standard vitreous china accessories in color and finish to match adjoining glazed wall tile.

2.4 MARBLE THRESHOLDS

A. General: Provide marble which is uniform in color and finish, fabricated to sizes and profiles indicated or required to provide transition between tile surfaces and adjoining finished floor surfaces.

B. Marble Thresholds: Provide marble thresholds complying with ASTM C 503 requirements for exterior use and abrasion resistance for uses subject to heavy foot traffic.

2.5 SETTING MATERIALS

A. Polymer-Modified Thin-Set Mortar: Provide product complying with ANSI A118.4 and the following requirement for composition:

B. For wall applications, provide nonsagging mortar that complies with Paragraph C-4.6.1 in addition to the other requirements in ANSI A118.1.

C. Prepackaged dry mortar mix incorporating dry polymer redispersible, ethylene vinyl acetate additive in the form of a re-emulsifiable powder to which only water is added at job site.

2.6 GROUTING MATERIALS

A. Epoxy Grout: Two-component resin and hardener system that is combined with polymer-modified Sanded/unsanded Grout. Provide product complying with ANSI A118.3, Chemical Resistant, Water-Cleanable Tile Setting and Grouting 100 percent Solids Epoxy Grout; for the following composition and of color indicated:

1. Unsanded grout mixture for joints 1/8 inch (3.2 mm) and narrower.
2. Sanded grout mixture for joints 1/8 inch (3.2 mm) and wider.

B. Grout to be dark color, selected by Owner from manufacturer's full range.

2.7 MISCELLANEOUS MATERIALS

A. Waterproofing at shower pan: single-ply, sheet membrane; 30-40 mils minimum thickness equal to composeal shower pan membrane or Noble Seal Chloraloy membrane or Architect approved equivalent.

2.8 MIXING MORTARS AND GROUT

A. Mix mortars and grouts to comply with requirements of referenced standards and manufacturers for accurately proportioning of materials, water or additive content, mixing equipment and mixer speeds, mixing containers, mixing time, and other procedures needed to produce mortars and grouts of uniform quality with optimum performance characteristics for application indicated.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Examine surfaces to receive tile work and conditions under which tile will be installed. Do not proceed with tile work until surfaces and conditions comply with requirements indicated in referenced tile installation standard.

3.2 INSTALLATION, GENERAL

A. ANSI Tile Installation Standard: Comply with applicable parts of ANSI 108 series of tile installation standards included under "American National Standard Specifications for the Installation of Ceramic Tile".

B. TCA Installation Guidelines: TCA "Handbook for Ceramic Tile Installation"; comply with TCA installation methods indicated or, if not otherwise indicated, as applicable to installation conditions shown.

C. Extend tile work into recesses and under or behind equipment and fixtures, to form a complete covering without interruptions, except as otherwise shown. Terminate work neatly at obstructions, edges and corners without disrupting pattern or joint alignments.

D. Accurately form intersections and returns. Perform cutting and drilling of tile without marring visible surfaces. Carefully grind cut edges of tile abutting trim, finish or built-in items for straight aligned joints. Fit tile closely to electrical outlets, piping, fixtures and other penetrations so that plates, collars, or covers overlap tile.

E. Jointing Pattern: Unless otherwise shown, lay tile in grid pattern. Align joints when adjoining tiles on floor, base, walls and trim are same size. Layout tile work and center tile fields in both directions in each space or on each wall area. Adjust to minimize tile cutting. Provide uniform joint widths, unless otherwise shown.

1. For tile mounted in sheets make joints between tile sheets same width as joints within tile sheets so that extent of each sheet is not apparent in finished work.

F. Lay out tile wainscots, if any are indicated on drawings, to next full tile beyond dimensions indicated.

G. Expansion Joints: Locate expansion joints and other sealant filled joints, including control, contraction and isolation joints (if any), where indicated on structural drawings. Do not saw cut joints in tile to create alignment.

1. Prepare joints and apply sealants to comply with requirements of referenced standards and sealant manufacturer.

2. Locate joints directly above joints in subfloor; such as control joints and expansion joints. If grout joint line does not fall directly above slab joint, use slip membrane or other isolation membrane designed to prevent crack formation in finish tile work.

3. Where grout joints do not align with subsurface joints, do not use cut tiles to create alignment with subsurface slab joints: use slip membrane, isolation membrane or other approved method.

H. Grout tile to comply with the requirements of the following installation standards:

1. For ceramic tile grouts (latex-portland cement grouts) comply with ANSI A108.10.

3.3 WALL TILE INSTALLATION METHODS

A. Install types of tile designated for wall application to comply with requirements indicated below for setting bed methods, TCA installation methods related to subsurface wall conditions, and grout types:

1. Latex-Portland Cement Mortar: ANSI A108.5

2. Wall Tile at Inside Corners: Rake out inside corner joints and install caulk.

3.4 FLOOR INSTALLATION METHODS

A. Floor Tile:

1. Slabs on grade: TCA F121 using waterproof membrane and portland cement mortar and latex portland cement grout.
2. Mortar bed: Where indicated; use waterproof membrane and dry-set portland cement mortar and latex portland cement grout.

B. Concrete Substrate:

1. All concrete substrates shall be at least 28 days old, completely cured and free of hydrostatic conditions, and/or moisture problems.

2. New concrete surfaces for dry-set mortar, medium-bed mortar or thick-bed mortar installations shall be wood floated or broom finished. Concrete walls should be bush-hammered or heavily sandblasted.

3. On grade or below grade concrete slabs must be installed over an effective vapor barrier and be exempt from hydrostatic pressures.

4. Over excessively dry porous concrete, keep the concrete substrate continuously moist for at least 24 hours before work begins when using dry-set mortars or medium-bed mortars. Remove all excess water or standing water allowing the surface to become almost dry before installing the leveling coat, dry-set mortar or medium-bed dry-set mortar.

5. For minor repairs and smoothing up to 1/2 inch (12 mm), use Skim Coat & Patch Cement Underlayment or SpeedFinish Patching & Finishing Compound.

6. For leveling of large areas use LevelLite Self-Leveling Underlayment for pours up to 2 inches (51 mm) thick, LevelQuik Rapid Setting Self-Leveling Underlayment for pours up to 1 inch (25 mm) thick or Extended Setting Self-Leveling Underlayment for pours up to 1 inch (25 mm) thick.

7. CustomFloat Bedding Mortar mixed with water and Acrylic Mortar Admix to build-up or level a concrete substrate requiring a topping between 1/2 inch (12 mm) and 2 inch (50 mm) average thickness (see data sheet for details).

8. Stone Thresholds: Install stone thresholds at perimeter of floor tile where raw edge of tile or tile mortar bed would otherwise be exposed, and/or where indicated on drawings; set in same type of setting bed as abutting field tile.

3.5 CLEANING AND PROTECTION

A. Cleaning: Upon completion of placement and grouting, clean all ceramic tile surfaces so they are free of foreign matter without the use of acid cleaning solutions.

1. Tile Cleaner: A neutral cleaner capable of removing soil and residue without harming tile and grout surfaces, specifically approved for materials and installations indicated by tile and grout manufacturers.

B. Grout Sealer: Apply grout sealer to cementitious grout joints according to grout-sealer manufacturer's written instructions. As soon as grout sealer has penetrated grout joints, remove excess sealer and sealer that has gotten on tile faces by wiping with soft cloth.

C. Finished Tile Work: Leave finished installation clean and free of cracked, chipped, broken, unbonded, or otherwise defective tile work.

D. Protection: Protect installed tile work with kraft paper or other heavy covering during construction period to prevent staining, damage and wear.

1. Prohibit foot and wheel traffic from using tiled floors for at least 7 days after grouting is completed.
2. Immediately before final inspection, remove protective coverings and re-clean tile surfaces.

END OF SECTION 09300

SECTION 09510 - SUSPENDED ACOUSTICAL CEILINGS

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Suspended metal grid ceiling system and perimeter trim.

B. Acoustical tile.

C. Supplementary acoustical insulation over system units.

1.2 RELATED SECTIONS

A. Air Outlets and Inlets: Air diffusion devices in ceiling system.

B. Interior Luminaries: Light fixtures in ceiling system.

C. Fire Alarm and Smoke Detection Systems: Fire alarm components in ceiling system.

1.3 REFERENCES

A. ASTM C635 - Metal Suspension Systems for Acoustical Tile and Lay-in Panel Ceilings.

B. ASTM C636 - Installation of Metal Ceiling Suspension Systems for Acoustical Tile and Lay-in Panels.

C. ASTM C665 - Mineral Fiber Blanket Thermal Insulation for Light Frame Construction and Manufactured Housing.

D. ASTM E580 - Practice for Application of Ceiling Suspension Systems for Acoustical Tile and Lay-in Panels in Areas Requiring Seismic Restraint.

E. ASTM E1264 - Classification of Acoustical Ceiling Products.

F. Ceilings and Interior Systems Contractors Association (CISCA) - Acoustical Ceilings: Use and Practice.

1.4 SYSTEM DESCRIPTION

A. Suspension system to rigidly secure acoustical ceiling system including integral mechanical and electrical components with maximum deflection of 1/360.

1.5 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Product Data: Provide data on metal grid system components and acoustical.

C. Samples: Submit two samples 6 x 6 inch in size illustrating material and finish of acoustical units.

D. Samples: Submit two samples each, 4 inches long, of suspension system main runner, cross runner, and edge trim.

E. Manufacturer's Installation Instructions: Indicate special procedures, and perimeter conditions requiring special attention.

F. Manufacturers certification of recycled material content.

1.6 QUALIFICATIONS

A. Grid Manufacturer: Company specializing in manufacturing the Products specified in this section with minimum three years documented experience.

B. Acoustical Unit Manufacturer: Company specializing in manufacturing the Products specified in this section with minimum three years documented experience.

1.7 ENVIRONMENTAL REQUIREMENTS

A. Maintain uniform temperature of minimum 60 degrees F, and maximum humidity of 40 percent prior to, during, and after acoustical unit installation.

1.8 SEQUENCING

A. Sequence work to ensure acoustical ceilings are not installed until building is enclosed, sufficient heat is provided, dust generating activities have terminated, and overhead work is completed, tested, and approved.

B. Install acoustical units after interior wet work is dry.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 SUSPENSION SYSTEM

A. Exposed tee system. Components for use in general and fire-rated applications

2.3 SUSPENSION SYSTEM MATERIALS

A. Non-fire Rated Grid: ASTM C635, intermediate duty; exposed T; components die cut and interlocking.

B. Grid Materials: Commercial quality cold rolled steel with galvanized coating. Wet areas to be 15/16" aluminum.

C. Exposed Grid Surface Width: 9/16 inch at areas specified: Conference Room, Entry Lobby, Office, IT/Operations Room, Corridors, Lab, Break Room, Entry Vestibule.

D. Exposed Grid Surface Width: 15/16-inch at all areas of Acoustical Tile Type 3 installation and all areas unless otherwise noted.

E. Grid Finish: White color.

F. Accessories: Stabilizer bars clips splices and hold down clips required for suspended grid system.

G. Support Channels and Hangers: Galvanized steel; size and type to suit application and ceiling system flatness requirement specified.

2.4 ACOUSTICAL UNIT MATERIALS

A. Acoustical Tile Type 1: Fine textured, non-perforated, non-fissured panel ASTM E1264, Type IV, Form 2 Pattern E; ASTM E84 Class A, flame spread 25, smoke develop 25 conforming to the following:

1. Size: 24 x 24 inches.
2. Thickness: 5/8 inches.
3. Composition: Mineral with 65% recycled content.
4. Edge: Fineline bevel.
5. Surface Color: White.
6. NRC range 0.55
7. Light Reflectance 0.86
8. Price Group 2

B. Acoustical Tile Type 2: Medium textured, Fissured panel ASTM E1264, Cast Mineral Fiber substrate Type III, Form 4, Pattern D; ASTM E84 Class A, flame spread 25, smoke develop 50 conforming to the following:

1. Size: 24 x 24 inches.
2. Thickness: 3/4 inches.
3. Composition: Mineral with 71% recycled content.
4. Edge: Fineline.
5. Surface Color: White.
6. NRC range 0.70
7. Light Reflectance 0.79
8. Price Group

C. Acoustical Tile Type 3 Moisture Resistant Sheetrock Vinyl-faced Tile: ASTM E1264, Type XX, pattern G; ASTM E84 Class A, flame spread 20, smoke develop 5; conforming to the following:

1. Size: 24 x 24 inches
2. Thickness: 1/2"

3. Composition: Gypsum core with sealed edges, vinyl face and back
4. Joint: Lay-in.
5. Edge: Square.
6. Surface Color: White
7. NRC range n/a
8. Light Reflectance 0.77
9. Price Group 1
10. Surface Finish: Scrubbable vinyl.

2.5 ACCESSORIES

A. Acoustical Batt Insulation: ASTM C665; Preformed glass fiber, friction fit type, unfaced, 6 inch thick. Maximum weight, .26 lb/ft. As scheduled.

B. Touch-up Paint: Type and color to match acoustical and grid units.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verify that layout of hangers will not interfere with other work.

3.2 INSTALLATION - LAY-IN GRID SUSPENSION SYSTEM

A. Install suspension system in accordance with manufacturer's instructions and as supplemented in this section.

B. Install system capable of supporting imposed loads to a deflection of 1/360 maximum.

C. Lay out system to a balanced grid design with edge units no less than 50 percent of acoustical unit size as much as possible. No units to be sized less than 4-inches.

D. Locate system on room axis according to reflected plan.

E. Install after major above ceiling work is complete. Coordinate the location of hangers with other work.

F. Provide additional hangers and inserts as required.

G. Hang suspension system independent of walls, columns, ducts, pipes and conduit. Where carrying members are spliced, avoid visible displacement of face plane of adjacent members.

H. Where ducts or other equipment prevent the regular spacing of hangers, reinforce the nearest affected hangers and related carrying channels to span the extra distance.

I. Do not support components on main runners or cross runners if weight causes total dead load to exceed deflection capability.

J. Do not eccentrically load system, or produce rotation of runners.

K. Install edge molding at intersection of ceiling and vertical surfaces, using longest practical lengths. Miter corners. Provide edge moldings at junctions with other interruptions.

L. Form expansion joints. Form to accommodate plus or minus 1 inch movement. Maintain visual closure.

M. Install light fixture boxes constructed of gypsum board above light fixtures in accordance with UL assembly requirements.

3.3 INSTALLATION - ACOUSTICAL UNITS

A. Install acoustical units in accordance with manufacturer's instructions.

B. Fit acoustical units in place, free from damaged edges or other defects detrimental to appearance and function.

C. Install units after above ceiling work is complete.

D. Install acoustical units level, in uniform plane, and free from twist, warp and dents.

E. Cut tile to fit irregular grid and perimeter edge trim.

F. Lay acoustical insulation for a distance of 48 inches either side of acoustical partitions.

G. Install hold-down clips to retain panels tight to grid system at fire rated assemblies.

H. Install acoustical insulation as scheduled.

3.4 ERECTION TOLERANCES

A. Maximum Variation from Flat and Level Surface: 1/8 inch in 10 feet.

B. Maximum Variation from Plumb of Grid Members Caused by Eccentric Loads: 2 degrees.

END OF SECTION 09510

SECTION 09651 – RESILIENT TILE FLOORING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

A. This Section includes the following:

1. Vinyl composition floor tile.

B. Related Sections include the following:

1. Division 9 Section "Resilient Wall Base and Accessories" for resilient wall base, reducer strips, and other accessories installed with resilient floor tiles.

C. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

1.3 SUBMITTALS

A. Product Data: For each type of product specified.

B. Samples for Initial Selection: Manufacturer's color charts consisting of units or sections of units showing the full range of colors and patterns available for each type of product indicated.

C. Product Certificates: Signed by manufacturers of resilient products certifying that each product furnished complies with requirements.

D. Maintenance Data: For resilient floor tile to include in the maintenance manuals specified in Division 1.

1.4 QUALITY ASSURANCE

A. Installer Qualifications: Engage an experienced installer to perform work of this Section who has specialized in installing resilient products similar to those required for this Project and with a record of successful in-service performance.

B. Source Limitations: Obtain each type, color, and pattern of product specified from one source with resources to provide products of consistent quality in appearance and physical properties without delaying the Work.

C. Fire-Test-Response Characteristics: Provide products with the following fire-test-response characteristics as determined by testing identical products per test method indicated below by a testing and inspecting agency acceptable to authorities having jurisdiction.

1. Critical Radiant Flux: 0.45 W/sq. cm or greater when tested per ASTM E 648.

2. Smoke Density: Maximum specific optical density of 450 or less when tested per ASTM E 662.

1.5 DELIVERY, STORAGE, AND HANDLING

A. Deliver products to Project site in manufacturer's original, unopened cartons and containers, each bearing names of product and manufacturer, Project identification, and shipping and handling instructions.

B. Store products in dry spaces protected from the weather, with ambient temperatures maintained between 50 and 90 deg F (10 and 32 deg C).

C. Store tiles on flat surfaces.

D. Move products into spaces where they will be installed at least 48 hours before installation, unless longer conditioning period is recommended in writing by manufacturer.

1.6 PROJECT CONDITIONS

A. Maintain a temperature of not less than 70 deg F (21 deg C) or more than 95 deg F (35 deg C) in spaces to receive products for at least 48 hours before installation, during installation, and for at least 48 hours after installation, unless manufacturer's written recommendations specify longer time periods. After post-installation period, maintain a temperature of not less than 55 deg F (13 deg C) or more than 95 deg F (35 deg C).

B. Do not install products until they are at the same temperature as the space where they are to be installed.

C. Close spaces to traffic during flooring installation and for time period after installation recommended in writing by manufacturer.

D. Install tiles and accessories after other finishing operations, including painting, have been completed.

E. Where demountable partitions and other items are indicated for installation on top of resilient tile flooring, install tile before these items are installed.

F. Do not install flooring over concrete slabs until slabs have cured and are sufficiently dry to bond with adhesive, as determined by flooring manufacturer's recommended bond and moisture test.

1.7 EXTRA MATERIALS

A. Furnish extra materials described below that match products installed, are packaged with protective covering for storage, and are identified with labels describing contents.

1. Furnish not less than one box for each 50 boxes or fraction thereof, of each type, color, pattern, class, wearing surface, and size of resilient tile flooring installed.

2. Deliver extra materials to Owner.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. Available Products: Subject to compliance with requirements, products that may be incorporated into the Work include, but are not limited to, those indicated in the Resilient Tile Flooring Schedule at the end of Part 3.

2.2 RESILIENT TILE

A. Vinyl Composition Floor Tile: Products complying with ASTM F 1066 and with requirements specified in the Resilient Tile Flooring Schedule.

2.3 INSTALLATION ACCESSORIES

A. Trowelable Leveling and Patching Compounds: Latex-modified, portland-cement-based formulation provided or approved by flooring manufacturer for applications indicated.

B. Adhesives: Water-resistant type recommended by manufacturer to suit resilient products and substrate conditions indicated.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Examine substrates, areas, and conditions where installation of resilient products will occur, with Installer present, for compliance with manufacturer's requirements. Verify that substrates and conditions are satisfactory for resilient product installation and comply with requirements specified.

B. Concrete Subfloors: Verify that concrete slabs comply with ASTM F 710 and the following:

1. Slab substrates are dry and free of curing compounds, sealers, hardeners, and other materials that may interfere with adhesive bond. Determine adhesion and dryness characteristics by performing bond and moisture tests recommended by flooring manufacturer.

2. Subfloor finishes comply with requirements specified in Division 3 Section "Cast-in-Place Concrete" for slabs receiving resilient flooring.

3. Subfloors are free of cracks, ridges, depressions, scale, and foreign deposits.

C. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.2 PREPARATION

A. General: Comply with resilient product manufacturer's written installation instructions for preparing substrates indicated to receive resilient products.

B. Use trowelable leveling and patching compounds, according to manufacturer's written instructions, to fill cracks, holes, and depressions in substrates.

C. Remove coatings, including curing compounds, and other substances that are incompatible with flooring adhesives and that contain soap, wax, oil, or silicone, using mechanical methods recommended by manufacturer. Do not use solvents.

D. Broom and vacuum clean substrates to be covered immediately before product installation. After cleaning, examine substrates for moisture, alkaline salts,

carbonation, or dust. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.3 TILE INSTALLATION

A. General: Comply with tile manufacturer's written installation instructions.

B. Lay out tiles from center marks established with principal walls, discounting minor offsets, so tiles at opposite edges of room are of equal width. Adjust as necessary to avoid using cut widths that equal less than one-half of a tile at perimeter.

1. Lay tiles square with room axis, unless otherwise indicated.

C. Match tiles for color and pattern by selecting tiles from cartons in the same sequence as manufactured and packaged, if so numbered. Cut tiles neatly around all fixtures. Discard broken, cracked, chipped, or deformed tiles.

1. Lay tiles in basket-weave pattern with grain direction alternating in adjacent tiles.

D. Scribe, cut, and fit tiles to butt neatly and tightly to vertical surfaces and permanent fixtures, including built-in furniture, cabinets, pipes, outlets, edgings, door frames, and thresholds.

E. Extend tiles into toe spaces, door reveals, closets, and similar openings.

F. Maintain reference markers, holes, and openings that are in place or marked for future cutting by repeating on finish flooring as marked on subfloor. Use chalk or other nonpermanent, nonstaining marking device.

G. Install tiles on covers for telephone and electrical ducts, and similar items in finished floor areas. Maintain overall continuity of color and pattern with pieces of flooring installed on covers. Tightly adhere edges to perimeter of floor around covers and to covers.

H. Adhere tiles to flooring substrates using a full spread of adhesive applied to substrate to comply with tile manufacturer's written instructions, including those for trowel notching, adhesive mixing, and adhesive open and working times.

1. Provide completed installation without open cracks, voids, raising and puckering at joints, telegraphing of adhesive spreader marks, and other surface imperfections.

I. Hand roll tiles according to tile manufacturer's written instructions.

3.4 RESILIENT ACCESSORY INSTALLATION

A. General: Install resilient accessories according to manufacturer's written installation instructions.

B. Place resilient accessories so they are butted to adjacent materials and bond to substrates with adhesive. Install reducer strips at edges of flooring that would otherwise be exposed.

C. Apply resilient products to stairs as indicated and according to manufacturer's written installation instructions.

3.5 CLEANING AND PROTECTING VINYL COMPOSITION TILE

A. Immediately after completing tile installation clean and protect tiles as follows and using methods recommended by manufacturer:

1. Remove visible adhesive and other surface blemishes using cleaner recommended by tile manufacturers.

2. Sweep or vacuum floor thoroughly.

3. Wash floor (minimum four days after installation). Damp mop floor with a dilute neutral detergent solution. Use mineral spirits (painter's naptha) to remove stubborn dirt or adhesive residue. Do not scrub floor with floor machine or apply liberal amount of cleaner or water for minimum one week after installation.

4. Apply two coats of high quality metal cross-linked acrylic floor polish.

B. Protect flooring against mars, marks, indentations, and other damage from construction operations and placement of equipment and fixtures during remainder of construction period. Use protection methods indicated or recommended by tile manufacturer.

1. Do not move heavy and sharp objects directly over tiles. Place plywood or hardboard panels over tiles and under objects while they are being moved. Slide or roll objects over panels without moving panels.

C. Not more than 4 days prior to dates scheduled for inspections intended to establish date of Substantial Completion in each area of Project clean tiles as follows and using methods recommended by manufacturer.

1. Scrub floor using a good quality neutral cleaner and single disc floor machine equipped with scrubbing pad or soft scrubbing brush. Stripping of initial protective polish is not necessary unless floor was subjected to harsh abusive traffic. If necessary, clean floor with stripping solution recommended by polish manufacturer to remove ground in dirt. Pick up cleaner or stripping solution with a vacuum recommended for this use.

2. Rinse thoroughly after scrubbing or stripping. Allow to dry thoroughly.

3. When dry, apply four coats of a good quality metal cross-linked acrylic floor polish. Sealers are permissible if specified by the polish manufacturer's maintenance system. Apply coats of polish as recommended by the manufacturer and protect from traffic for a minimum of four hours. Overnight drying is best.

3.6 CLEANING AND PROTECTING RUBBER FLOOR TILE AND ACCESSORIES

A. Perform the following operations immediately after installing resilient products:

1. Remove adhesive and other surface blemishes using cleaner recommended by resilient product manufacturers.

2. Sweep or vacuum floor thoroughly.

3. Do not wash floor until after time period recommended by flooring manufacturer.

4. Damp-mop floor to remove marks and soil.

B. Protect flooring against mars, marks, indentations, and other damage from construction operations and placement of equipment and fixtures during the remainder of construction period. Use protection methods indicated or recommended in writing by flooring manufacturer.

1. Cover products installed on floor surfaces with undyed, untreated building paper until inspection for Substantial Completion.

2. Do not move heavy and sharp objects directly over floor surfaces. Place plywood or hardboard panels over flooring and under objects while they are being moved. Slide or roll objects over panels without moving panels.

C. Clean floor surfaces not more than 4 days before dates scheduled for inspections intended to establish date of Substantial Completion in each area of Project. Clean products according to manufacturer's written recommendations.

3.7 RESILIENT TILE FLOORING SCHEDULE

A. Vinyl Composition Tile VCT-1: Where this designation is indicated, provide vinyl composition floor tile complying with the following:

1. Available Products: As follows:
   a. Armstrong World Industries, Inc.
   b. Azrock Industries, Inc.
   c. Mannington, Inc., Mannington Commercial
   d. Tarkett, Inc.

2. Color and Pattern: As selected by Architect from manufacturer's full range of colors and patterns produced for tile complying with requirements indicated.

3. Class: Class 2 (through-pattern tile).

4. Wearing Surface: Smooth.

5. Thickness: 1/8 inch.

6. Size: 12 by 12 inches.

END OF SECTION 09651

SECTION 09653 – RESILIENT WALL BASE AND ACCESSORIES

PART 1 - GENERAL

1.1 SUMMARY

A. This Section includes the following:

1. Wall base.

1.2 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Product Data: For each product indicated.

C. Samples: For each type of product indicated, in manufacturer's standard-size Samples but not less than 12 inches long, of each resilient product color, texture, and pattern required.

1.3 PROJECT CONDITIONS

A. Maintain temperatures within range recommended by manufacturer, but not less than 70 deg F or more than 95 deg F , in spaces to receive floor tile during the following time periods:

1. 48 hours before installation.

2. During installation.

3. 48 hours after installation.

B. After postinstallation period, maintain temperatures within range recommended by manufacturer, but not less than 55 deg F or more than 95 deg F.

C. Install resilient products after other finishing operations, including painting, have been completed.

1.4 EXTRA MATERIALS

A. Furnish extra materials described below that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.

1. Furnish not less than 10 linear feet for every 500 linear feet or fraction thereof, of each type, color, pattern, and size of resilient product installed.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The**

Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.Colors and Patterns: As selected from manufacturer's full range.

2.2 RESILIENT WALL BASE.

A. Wall Base: ASTM F 1861.

B. Type: TS rubber, vulcanized thermoset.

C. Group: I solid, homogeneous.

D. Style: Cove with top-set toe for sheet or tile flooring application, Straight toeless for carpet application.

E. Minimum Thickness: 0.125 inch.

F. Height: 4 inches.

G. Lengths: coils in manufacturer's standard length. No rubber base to rubber base joints will be permitted except at corners.

H. Outside Corners: Premolded.

I. Inside Corners: Job Formed

J. Surface: Smooth.

2.3 INSTALLATION MATERIALS

A. Trowelable Leveling and Patching Compounds: Latex-modified, portland cement based or blended hydraulic cement based formulation provided or approved by resilient product manufacturers for applications indicated.

B. Adhesives: Water-resistant zero VOC type recommended by manufacturer to suit resilient products and substrate conditions indicated.

PART 3 - EXECUTION

3.1 PREPARATION

A. Prepare substrates according to manufacturer's written recommendations to ensure adhesion of resilient products.

B. Remove substrate coatings and other substances that are incompatible with adhesives and that contain soap, wax, oil, or silicone, using mechanical methods recommended by manufacturer. Do not use solvents.

C. Use trowelable leveling and patching compound to fill cracks, holes, and depressions in substrates.

D. Move resilient products and installation materials into spaces where they will be installed at least 48 hours in advance of installation.

1. Do not install resilient products until they are the same temperature as the space where they are to be installed.

E. Sweep and vacuum clean substrates to be covered by resilient products immediately before installation. After cleaning, examine substrates for moisture, alkaline salts, carbonation, and dust. Proceed with installation only after unsatisfactory conditions have been corrected.

3.2 RESILIENT WALL BASE INSTALLATION

A. Apply wall base to walls, columns, pilasters, casework and cabinets in toe spaces, and other permanent fixtures in rooms and areas where base is required.

B. Install wall base in lengths as long as practicable without gaps at seams and with tops of adjacent pieces aligned.

C. Tightly adhere wall base to substrate throughout length of each piece, with base in continuous contact with horizontal and vertical substrates. Install with thin continuous adhesive application to substrate. Beaded or liner application of adhesive will not be allowed.

D. Do not stretch wall base during installation.

E. On masonry surfaces or other similar irregular substrates, fill voids along top edge of wall base with manufacturer's recommended adhesive filler material.

F. Premolded Corners: Install premolded corners before installing straight pieces.

3.4 CLEANING AND PROTECTION

A. Perform the following operations immediately after completing resilient product installation:

1. Remove adhesive and other blemishes from exposed surfaces.
2. Sweep and vacuum surfaces thoroughly.
3. Damp-mop surfaces to remove marks and soil.

a) Do not wash surfaces until after time period recommended by manufacturer.

B. Protect resilient products from mars, marks, indentations, and other damage from construction operations and placement of equipment and fixtures during remainder of construction period. Use protection methods recommended in writing by manufacturer.

END OF SECTION 09653

SECTION 09680 - CARPETING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. The Drawings and provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 1, General Requirements, are included as a part of this Section as though bound herein.

1.2 SUMMARY

A. Extent, location and details of each type of carpeting are indicated on drawings and in schedules.

B. Work of this section includes furnishing and installation of carpeting, adhesives, and accessories.

1.3 DEFINITIONS

A. Commercial Carpet: Carpet intended for use in commercial and public spaces, with construction, fire ratings, static control and appearance appropriate for this use.

1.4 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Product Data: Submit manufacturer's product literature and installation instructions for each type of carpeting material and installation accessory required. Include methods of installation for each type of substrate.

1. Submit written data (prepared by an independent test laboratory) describing physical characteristics, durability, resistance to fading and flame resistance characteristics.

C. Shop Drawings: Submit shop drawings showing carpet layout and seaming diagrams, clearly indicating carpet direction, and types of edge strips. Indicate columns, doorways, enclosing walls/partitions, built-in cabinets, and locations where cutouts are required in carpet. Show installation details at special conditions. Shop drawings shall be prepared at 1/4" scale.

1. The Owner reserves the right to revise seam locations to eliminate seams in critical, high traffic areas at no additional cost to the Owner.

D. Samples for Initial Selection Purposes: Submit manufacturer's standard size samples and color yarns showing full range of colors, textures and patterns available for each type of carpet required.

E. Samples for Verification Purposes:

1. Eighteen inch (18") square samples of each type of carpet material required.

2. Twelve inch (12") long samples of each type exposed edge stripping and accessory items.

F. Prepare samples from same material to be used for the work.

G. Purchase Order Verification: The carpet supplier shall submit confirmation of purchase from the Manufacturer clearly showing the carpet series, pile weight, type of backing, colors, and ply construction for record prior to installation.

1.5 QUALITY ASSURANCE

A. Manufacturer Qualifications: Firm (material producer) with not less than 5 years of production experience, whose published literature clearly indicates general compliance of products with requirements of this section.

B. Installer Qualifications: Firm specializing in carpet installation with not less than 5 years of experience in installation of carpeting similar to that required for this project.

C. Single Source Responsibility: Provide material produced by a single manufacturer for each carpet type.

1.6 TESTING

A. Test Reports: Submit certified test reports evidencing compliance with requirements for the following:

1. Fire performance characteristics.

2. Physical properties indicated.

B. Fire Performance Characteristics: Provide carpeting that is identical to that tested for the following fire performance requirements, according to test method indicated, by UL.

1. Flammability:

a. Rating: Passes CPSC FF 1-70 (ASTM D-2859

b. Test Method: ASTM D 2859.

2. Critical Radiant Flux:

a. Rating: Class 1 (mean average CRF: 0.45 w/sq cm or higher

b. Test Method: ASTM E 648.

3. Smoke Density:

a. Rating: 450 or less

b. Test Method: ASTM E 662.

C. Physical Properties: Provide carpeting that is identical to the following physical properties:

1. Warranty: 15 year non-prorated limited warranty against excessive surface wear, static, elamination, edge ravel, zippering & backing resiliency loss.

2. Electrostatic Propensity 2.4 kV (AATCC 134); Permanent Conductive Fiber

3. Total Recycled Content 19.2% Pre-Consumer: 19.2% Post-Consumer: 0% SCS Certified

4. Product Size 18" x 18" Tile

5. Secondary Backing Fiberglass Reinforced Composite Closed Cell Cushion

6. Intermediate Layer Fiberglass Reinforced Sealant

7. Product Construction No Delamination per ASTM D-3936

8. Cushion Weight 35.5 oz/sq yd 1203 g/sq m ASTM D-3574

9. Cushion Density 18.5 lbs/cu ft 296 kg/cu m ASTM D-3574

10. Cushion Thickness 0.156 inch 4.0 mm ASTM D-3574

11. Total Weight with RS / Non-RS 117.1 115.7 oz/sq yd +/-5% 3971 3924 g/sq m

12. Compression Set Max. 10% ASTM D-3574

13. Compression Deflection 5 Min. 25 max lbs/sq inch @ 25% 352 1758 g/sq cm ASTM D-3574

14. CRI Green Label Plus Certification GLP655

D. Certification: Submit manufacturer's certificate stating that materials furnished comply with specified requirements. Include supporting certified laboratory testing data indicating that material meets specified test requirements.

1.7 DELIVERY, STORAGE, AND HANDLING

A. Deliver materials to project site in original factory wrappings and containers, clearly labeled with identification of manufacturer, brand name, quality or grade, fire hazard classification, and lot number. Store materials in original undamaged packages and containers, inside well-ventilated area protected from weather, moisture, soiling, extreme temperatures, humidity; laid flat, blocked off ground to prevent sagging and warping. Maintain temperature in storage area above 40 degrees Fahrenheit.

B. Comply with instructions and recommendations of manufacturer for special delivery, storage, and handling requirements.

1.8 SEQUENCING AND SCHEDULING

A. Sequence carpet installation with other work to minimize possibility of damage and soiling during remainder of construction period.

1.9 WARRANTY

A. Special Wear Warranty: Submit a written warranty, executed by the Contractor, Installer and the Manufacturer, agreeing to repair or replace carpeting which fails in materials or workmanship within the specified warranty period. This warranty shall be in addition to and not a limitation of other rights the Owner may have against the Contractor under the Contract Documents.

B. Warranty period is 15 years after the date of substantial completion.

1.10 MAINTENANCE

A. Maintenance Instructions: Submit manufacturer's printed instructions for maintenance of installed work, including methods and frequency recommended for maintaining optimum condition under anticipated traffic and use conditions. Include precautions against materials and methods which may be detrimental to finishes and performance.

B. Replacement Materials: After completion of work, deliver not less than 2% of each type, color, and pattern of carpeting, exclusive of material required to properly complete installation. Furnish accessory components as required. Furnish replacement materials from same production run as materials installed. Package replacement materials with protective covering, identified with appropriate labels.

PART 2 - PRODUCTS

2.1 MANUFACTURER

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

B. Carpet Color, Pattern, and Texture: Selection from full range of Manufacturer's standard material. Loop Carpet Tiles with cushioned unitary backing

1. Platform Sizes:18" x 18"
2. TilePattern Scale: Medium
3. Pattern Type: Linear, strong, multi-colour striae
4. Dye Method: Solution Dyed / Yarn Dyed
5. Fiber System: Dynex® NylonGauge5/64 Gauge
6. Primary Backing: Non-woven synthetic fiber
7. Recycled Content: Yes
8. Construction Type: Stratatec™ Patterned Loop
9. Price Range:$$

2.2 ACCESSORIES

A. Carpet Edge Guard, Non-metallic: color as indicated on the Color Schedule or, if not indicated, as selected from approved Manufacturer's standard colors.

B. Installation Adhesive: Water-resistant, non-staining as recommended by carpet manufacturer, which complies with flammability requirements for installed carpet.

C. Seaming Cement: Seaming adhesive or similar product recommended by carpet manufacturer, for butting cut edges at backing to form secure seams and preventing pile loss at seams.

D. Miscellaneous Materials: As recommended by manufacturers of carpet, and other carpeting products; selected by Installer and approved by the carpet manufacturer to meet project circumstances and requirements.

E. Rubber Wall Base: Refer to Section 09653Resilient Wall Base Accessories contained herein.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Examine substrates for moisture content and other conditions under which carpeting is to be installed. Notify contractor in writing of major conditions detrimental to proper completion of the work. Do not proceed until unsatisfactory conditions have been corrected.

3.2 PREPARATION

A. Repair minor holes, cracks, depressions, and rough areas using material recommended by carpet or adhesive manufacturer.

B. Trowelable Leveling and Patching Compounds: Latex-modified, hydraulic-cement-based formulation provided by or recommended by carpet tile manufacturer.

C. Clear away debris and scrape up cementitious deposits from surfaces to receive carpeting; vacuum clean immediately before installation. Check concrete surfaces to ensure no dusting through installed carpet; apply sealer where required to prevent dusting.

3.3 INSTALLATION

A. Comply with manufacturer's recommendations and approved shop drawings for seam locations and direction of carpet; maintain uniformity of carpet location and lay of pile. Follow seaming diagram which bears the Architects "Approved as Submitted" stamp only. At doors, center seams under doors; do not place seams in traffic direction at doorway.

B. Extend carpet under open-bottomed obstructions and under removable flanges and furnishings, and into alcoves and closets of each space.

C. Provide cut-outs where required, and bind cut edges properly where not concealed by protective edge guards or overlapping flanges.

D. Install carpet edge guard where edge of carpet is exposed; anchor guards to substrate.

E. Expansion Joints: Do not bridge building expansion joints with continuous carpeting; provide for movement.

F. Glue-Down Installation:

1. Fit sections of carpet into each space prior to application of adhesive. Trim edges and butt cuts with seaming cement.

2. Apply adhesive uniformly to substrate in accordance with manufacturer's instructions. Butt carpet edges tightly together to form seams without gaps. Roll entire carpet area

lightly to eliminate air pockets and ensure uniform bond. Remove any adhesive promptly from face of carpet by method which will not damage carpet face.

3.4 CLEANING

A. Remove and dispose of debris and unusable scraps. Vacuum carpet using commercial machine with face-beater element. Remove spots and replace carpet where spots cannot be removed. Remove protruding face yarn using sharp scissors.

3.5 PROTECTION

A. Provide protective methods and materials needed to ensure that carpeting will be without deterioration or damage at time of substantial completion.

END OF SECTION 09680

SECTION 10200 - LOUVERS

PART 1 - GENERAL

1.1 SUMMARY

A. Section Includes:

1. Fixed, extruded-aluminum louvers.

1.2 PERFORMANCE REQUIREMENTS

A. Louver Performance Ratings: Provide louvers complying with requirements specified, as demonstrated by testing manufacturer's stock units identical to those provided, except for length and width according to AMCA 500-L.

1.3 ACTION SUBMITTALS

A. Product Data: For each type of product indicated.

1. For louvers specified to bear AMCA seal, include printed catalog pages showing specified models with appropriate AMCA Certified Ratings Seals.

B. Shop Drawings: For louvers and accessories. Include plans, elevations, sections, details, and attachments to other work. Show frame profiles and blade profiles, angles, and spacing.

1.4 INFORMATIONAL SUBMITTALS

A. Product Test Reports: Based on tests performed according to AMCA 500-L.

PART 2 - PRODUCTS

2.1 MATERIALS

A. Aluminum Extrusions: ASTM B 221, Alloy 6063-T5, T-52, or T6.

B. Fasteners: Use types and sizes to suit unit installation conditions.

1. For fastening aluminum, use aluminum or 300 series stainless-steel fasteners.
2. For color-finished louvers, use fasteners with heads that match color of louvers.

C. Bituminous Paint: Cold-applied asphalt emulsion complying with ASTM D 1187.

2.2 FABRICATION, GENERAL

A. Fabricate frames, including integral sills, to fit in openings of sizes indicated, with allowances made for fabrication and installation tolerances, adjoining material tolerances, and perimeter sealant joints.

B. Join frame members to each other and to fixed louver blades with fillet welds concealed from view unless otherwise indicated or size of louver assembly makes bolted connections between frame members necessary.

2.3 FIXED, EXTRUDED-ALUMINUM LOUVERS

A. Horizontal Louver: Provide product indicated on Drawings or comparable product by one of the manufacturer's listed in the schedule.

2.4 LOUVER SCREENS

A. General: Provide screen at each exterior louver.

B. Louver Screen Frames: Same kind and form of metal as indicated for louver to which screens are attached. Louver Screening: Bird Screening: Aluminum, 1/2-inch- square mesh, 0.063-inch wire.

2.5 ALUMINUM FINISHES

A. High-Performance Finish: As indicted in schedule.

1. Color and Gloss: As selected by Architect from manufacturer's full.

PART 3 - EXECUTION

3.1 INSTALLATION

A. Locate and place louvers level, plumb, and at indicated alignment with adjacent work. Use concealed anchorages where possible. Provide brass or lead washers fitted to screws where required to protect metal surfaces and to make a weathertight connection.

B. Provide perimeter reveals and openings of uniform width for sealants and joint fillers, as indicated.

C. Repair damaged finishes so no evidence remains of corrective work. Return items that cannot be refinished in the field to the factory and refinish entire unit or provide new units. Protect nonferrous-metal surfaces that will be in contact with concrete, masonry, or dissimilar metals from corrosion and galvanic action by applying a heavy coating of bituminous paint.

END OF SECTION 10200

SECTION 10431 - INTERIOR SIGNAGE

PART 1 GENERAL

1.1 SUMMARY

A. Related Documents: Provisions established within the General and Supplementary Conditions of the Contract, Division 1 - General Requirements, and the Drawings are collectively applicable to this Section.

B. Section Includes:
Interior changeable modular signs, mounted on a perforated chassis.

1.2 QUALITY ASSURANCE

A. Supplier: Obtain all products in this section from a single supplier.

B. Regulatory Requirements: Products shall meet requirements of the Americans With Disabilities Act Accessibility Guidelines (ADAAG) and local amendments and modifications.

C. Installer: Installation shall be performed by installer specialized and experienced in work similar to that required for this project.

1.3 SUBMITTALS

A. Submit in accordance with requirements of Division 1.

B. Product Data: Submit product data for specified products. Include material details for each sign specified.

C. Shop Drawings: Submit shop drawings showing layout, profiles, and product components, including dimensions, anchorage, and accessories.

D. Samples: Submit supplier's standard color chart for selection purposes and selected colors for verification purposes.

E. Installation: Submit supplier's installation instructions.

F. Closeout Submittals:
Submit operation and maintenance data for installed products, including precautions against harmful cleaning materials and methods.
Submit warranty documents specified herein.

1.4 DELIVERY, STORAGE, AND HANDLING

A. Comply with requirements of Division 1.
Comply with manufacturer's ordering instructions and lead time requirements to avoid construction delays.

Deliver products in manufacturer's original, unopened, undamaged containers with identification labels intact.

Store products protected from weather, temperature, and other harmful conditions as recommended by supplier.

Handle products in accordance with manufacturer's instructions.

1.5 WARRANTY

A. Project Warranty: Comply with requirements of Division 1.

B. Manufacturer's Warranty: Submit manufacturer's standard warranty document executed by authorized company official.

C. Warranty Period: Two (2) years from product ship date.

1.6 PRODUCTS:

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

B. Acceptable Product: Wall Mounted

1. Identification Signage: 1/4 inch acrylic ADA ready; non-glare finish; include combination of handicapped symbol and room identifications. These symbol plaques shall be etched and have raised integral (not applied) symbols and letters located beneath the symbol.

2. Room Signage: Vinyl/photopolymer on steel chassis; Upper Panel with raised numbers to be permanently attached; Lower Panel with raised letters to be removable from backing. Each room sign shall list the room number and a room identification name in both Braille and in the characters and numbers described above.

C. Chassis:

Material: Cold rolled, low carbon steel, die perforated 18 ga. sheet with high temperature cured powder coating.

D. ADA Compliant Panels:

Material: Provide tactile copy and Grade 2 Braille raised 1/32 inch minimum from plaque first surface by manufacturer's phenolic photopolymer bonded process. Signface of single material, tactile characters and Braille integral to photopolymer. Adhesive-fixed characters are not acceptable.

Finish: Two-component high temperature cured polyester coating per manufacturer's standard for phenolic photopolymer material.

Panel size: as indicated on drawings.

Panel color[s]: selected by Owner from manufacturer's standard color chart.

Text or graphic color[s]: High contrast (dark on light or light on dark) to background as selected by Owner from manufacturer's standard color chart.

Letter style(s), letter size[s] and layout position:

a) Identification Signage letters and numbers 5/8" high min. sans-serif , uppercase accompanied by grade 2 braille
b) Exit Signage letters 2" high min. with grade 2 braille. Light letters on dark background. Required at door(s) noted (EXIT HC)
c) Room Signage letters and numbers: upper portion 80 point New Basekerville font type face, grade 2 braille; lower portion 50 point New Baskerville font type face and grade 2 braille.

1.7 FABRICATION – GENERAL

A. General: Comply with requirements indicated for materials, thicknesses, finishes, colors, designs, shapes, sizes, and details of construction.

B. Preassemble signs in the shop to the greatest extent possible to minimize field assembly. Disassemble signs only as necessary for shipping and handling limitations. Clearly mark units for reassembly and installation, in a location not exposed to view after final assembly.

C. Conceal fasteners if possible; otherwise, locate fasteners to appear inconspicuous.

D. Form panels to required size and shape. Comply with requirements indicated for design, dimensions, finish, color, and details of construction.

E. Coordinate dimensions and attachment methods to produce message panels with closely fitting joints. Align edges and surfaces with one another in the relationship indicated.

PART 2 EXECUTION

A. EXAMINATION :

1. Site Verification of Conditions: Verify installation conditions previously established under other sections are acceptable for product installation in accordance with manufacturer's instructions. :

2. Scheduling of installation by Owner or it's representative implies that substrate and conditions are prepared and ready for product installation. Proceeding with installation implies installer's acceptance of substrate and conditions. :

B. INSTALLATION :

1. Install product in accordance with supplier's instructions.

2. Install product in locations indicated using mounting methods recommended by sign manufacturer and free from distortion, warp, or defect adversely affecting appearance.

3. Install product level, plumb, and at heights indicated.

4. Install product at heights to conform to Americans with Disabilities Act Accessibility Guidelines (ADAAG) and applicable local amendments and regulations.

5. Install signs within the following tolerances and in accordance with manufacturer's recommendations:
   a) Interior Signs: Within 1/4 inch vertically and horizontally of intended location.

2.2 CLEANING, PROTECTION, AND REPAIR

A. Repair scratches and other damage which might have occurred during installation. Replace components where repairs were made but are still visible to the unaided eye from a distance of 5 feet.

B. Remove temporary coverings and protection to adjacent work areas. Clean installed products in accordance with manufacturer's instructions prior to Owner's acceptance. Remove construction debris from project in accordance with provisions in Division 1.

2.3 SIGN SCHEDULE

A. Schedule: Refer to signage schedule and Drawings for sizes, locations, and layout of signage types, sign text copy, and graphics.

END OF SECTION 10431

SECTION 10503 – PLASTIC LOCKERS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Lockers of the following types:
   1. Plastic lockers.

1.2 RELATED SECTIONS

A. Section 06100 - Rough Carpentry: Furring, blocking, and shims.

1.3 REFERENCES

A. ADAAG - American with Disabilities Act, Accessibility Guidelines.

B. ANSI A117.1 - Accessible and Usable Buildings and Facilities.

C. American Society for Testing and Materials (ASTM) A1008 - Standard Specification for Steel Sheet, Carbon, Cold-Rolled, Commercial Quality.

D. American Society for Testing and Materials (ASTM) D4976 - Standard Specification for Polyethylene Plastics Molding and Extrusion Materials.

E. American Society for Testing and Materials (ASTM) E 84 - Standard Test Method for Surface Burning Characteristics of Building Materials.

1.4 SUBMITTALS

A. Submit under provisions of Section 01330 and 01340.

B. Manufacturer's data sheets on each product to be used, including

   1. Preparation instructions and recommendations.
   2. Storage and handling requirements and recommendations.
   3. Installation methods.

C. Shop Drawings: Provide layout and elevations of lockers with overall dimensions.

D. Maintenance Data: For adjusting, repairing, and replacing locker doors and latching mechanisms.

E. Selection Samples: For finish product specified, two complete sets of color chips representing manufacturer's full range of available colors.

F. Verification Samples: For finish product specified, two samples, minimum size 6 inches (150 mm) square, representing actual product and color selected.

G. Manufacturer's Standard Warranty data: 15 years.

1.5 DELIVERY, STORAGE, AND HANDLING

A. Inspect lockers upon receipt for visible damage.

B. Store products in manufacturer's unopened packaging until ready for installation.

C. Sequence deliveries to avoid project delays, but minimize on-site storage.

PART 2 PRODUCTS

2.1 MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

B. Provide all lockers from a single manufacturer.

2.2 MATERIALS

A. Plastic: High impact, high density polyethylene plastic (HDPE).

1. Coat Hooks: Stainless steel or high impact plastic.
2. Fasteners: Zinc plated manufacturer's standard.

2.3 PLASTIC LOCKERS

A. Standard Duty High Impact, High Density Polyethylene Plastic (HDPE):

1. Type of Lockers; configurations and locations as indicated on drawings:
    a. Single Tier
        1) Height: 72 inches (1829 mm).
        2) Size: 15 inches (381 mm) wide by 18 inches (457 mm) deep.
    b. Double Tier
        1) Height: 72 inches (1829 mm).
        2) Size: 15 inches (381 mm) wide by 18 inches (457 mm) deep.

B. Construction:

1. Components: High density polyethylene (HDPE) sheet. Commercial grade texture finish on flat surfaces.
    a. Doors, door frames, shelves, sides, back, top, and bottom components: Water resistant and non-absorbing HDPE. 1/2 inch (13 mm) nominal thickness and homogeneous in color.

2. Hinges: Continuous full length stainless steel, powder coated to match polymer locker color.

3. Latches: Securely attach to the door, continuous in design and be capable of accepting various locking mechanisms.

4. Interior Equipment:
    a. Double Tier lockers shall have three wall hooks and one ceiling hook

5. Number Plates: Polished aluminum attached to door face with black numerals 1/2 inch (13 mm) high.

6. Assembly Units: Group of no more than three adjacent lockers.

7. Locker components to be square, rigid, and free of scratches.

8. Assemble locker box enclosure by means of machined joints, pins and tamper resistant mechanical fasteners.

9. Locate mechanical fasteners internal to locker box enclosure or on rear of unit.

10. CNC machine locker door frames from single piece of solid HDPE material.

11. Machine locker doors from solid HDPE sheets without using limited door insert area.

12. Provide CNC machined ventilation ports positioned in an array pattern not less than a 4 by 4 inches (102 mm by 102 mm) grid.

13. Mount door handle to internal latch mechanism.

14. Mounting: 4 inches (102 mm) base mounting. Fabricate from HDPE Polymer to form components with 1 inch (25 mm) nominal thickness.

15. Slope Tops: 5 inches (127 mm).

PART 3 EXECUTION

3.1 EXAMINATION

A. Do not begin installation until substrates and bases have been properly prepared.

B. If substrate and bases are the responsibility of another installer, notify Architect of unsatisfactory preparation before proceeding.

3.2 INSTALLATION

A. Install lockers and accessories at locations shown in accordance with manufacturer's instructions.

B. Install lockers level and plumb with flush surfaces and rigid attachment to anchoring surfaces.

C. Anchor lockers to floor and wall at 48 inches (1.219 m) or less, as recommended by the manufacturer.

D. Fasten adjoining locker units together to provide rigid installation.

3.3 ADJUSTING AND CLEANING

A. Adjust doors and latches to operate without binding. Verify that latches are operating satisfactorily.

B. Touch-up factory-finish and repair or replace damaged products before Substantial Completion.

3.4 PROTECTION

A. Protect installed products until completion of project.

END OF SECTION 10503

SECTION 10522 - FIRE EXTINGUISHERS, CABINETS AND ACCESSORIES

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Fire extinguishers.
B. Cabinets.
C. Accessories.

1.2 RELATED SECTIONS

A. Section 09250 - Gypsum Board Systems: Roughed-in wall openings and blocking.

B. Section 09900 - Painting: Field paint finish.

1.3 REFERENCES

A. NFPA 10 - Portable Fire Extinguishers.

B. UL 299 - Dry Chemical Fire Extinguishers.

C. UL 711 - Rating and Fire Testing of Fire Extinguishers.

1.4 SUBMITTALS FOR REVIEW

A. Submit under provisions of Section 01330 and 01340.

B. Shop Drawings: Indicate cabinet physical dimensions, rough-in measurements for recessed cabinets, and location.

C. Product Data: Provide extinguisher operational features, color and finish, and anchorage details.

1.5 SUBMITTALS FOR INFORMATION

A. Submit under provisions of Section 01330 and 01340.

B. Manufacturer's Installation Instructions: Indicate special criteria and wall opening coordination requirements.

C. Manufacturer's Certificate: Certify that Products meet or exceed specified requirements.

1.6 SUBMITTALS AT PROJECT CLOSEOUT

A. Two copies Operation and Maintenance Data.

B. Maintenance Data: Include test, refill or recharge schedules and re-certification requirements.

1.7 QUALITY ASSURANCE

A. Provide units conforming with UL 711.

1.8 REGULATORY REQUIREMENTS

A. Conform to NFPA 10 for requirements for extinguishers.

1.9 ENVIRONMENTAL REQUIREMENTS

A. Do not install extinguishers when ambient temperature may cause freezing of extinguisher ingredients.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.

2.2 EXTINGUISHERS

A. Dry Chemical Type: UL 299, Cast steel tank, with pressure gage; Class A, B, C; 10 pound.

B. Extinguisher Finish: Stainless steel enamel to red color as selected.

C. Where wall bracket mounting called for on drawings provide brackets for 20 #APOC extinguisher mounting without cabinet.

2.3 CABINETS

A. Metal: Formed aluminum.

B. Configuration: Semi Recessed mounted type, sized to accommodate accessories.

C. Size: Inside; 24" x 9 1/2" x 6" , R. O. 25" x 10 1/2" x 3".

D. Trim Projection Rolled edge 3 1/2", Outside trim; 27 1/2" x 13"

E. Recessed Handle to meet ADA projection guidelines.

F. Door Glazing: Plastic, clear, 1/4 inch clear acrylic.

G. Cabinet Mounting Hardware: Appropriate to cabinet.

H. Form cabinet enclosure with right angle inside corners and seams. Form perimeter trim and door stiles.

I. Pre-drill for anchors.

J. Hinge doors for 180 degree opening with continuous piano hinge. Provide roller type catch.

K. Weld, fill, and grind components smooth.

L. Glaze doors with resilient channel gasket glazing.

M. Finishing Cabinet Exterior Trim and Door: Clear Anodized.

N. Finishing Cabinet Interior: White polyester coating.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verify rough openings for cabinet are correctly sized and located.

3.2 INSTALLATION

A. Install in accordance with manufacturer's instructions.

B. Install cabinets plumb and level in wall openings, 5'-0" from finished floor to handle of extinguishers.

C. Secure rigidly in place.

D. Place extinguishers in cabinets on wall brackets.

END OF SECTION 10522

SECTION 10800 - TOILET AND BATH ACCESSORIES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. The Drawings and provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 1, General Requirements, are included as a part of this Section as though bound herein.

1.2 SUMMARY

A. This Section includes the following toilet accessory items:

1. Toilet tissue dispenser
2. Towel dispensers
3. Grab bars
4. Soap dispenser
5. Shower curtain rod
6. Robe hook
7. Towel pin
8. Stainless Steel framed mirror units

1.3 SUBMITTALS

A. Product Data for each toilet accessory item specified, including details of construction relative to materials, dimensions, gages, profiles, method of mounting, specified options, and finishes.

B. Schedule: Indicating types, quantities, sizes, and installation locations (by room) for each toilet accessory item to be provided for project.

C. Setting Drawings: Where cutouts are required in other work, provide templates, substrate preparation instructions, and directions for preparing cutouts and for installation of anchorage devices.

1.4 QUALITY ASSURANCE

A. Inserts and Anchorages: Furnish inserts and anchoring devices that must be set in concrete or built into masonry; coordinate delivery with other work to avoid delay.

B. Single-Source Responsibility: Provide products of same manufacturer for each type of accessory unit and for units exposed to view in same areas, unless otherwise acceptable to Architect.

1.5 PROJECT CONDITIONS

A. Coordination: Coordinate accessory locations, installation, and sequencing with other work to avoid interference and to assure proper installation, operation, adjustment, cleaning, and servicing of toilet accessory items.

PART 2 - PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 MATERIALS, GENERAL

A. Stainless Steel: AISI Type 302/304, with polished No. 4 finish, 22-gage (.034-inch) minimum thickness, unless otherwise indicated.

B. Chromium Plating: Nickel and chromium electro-deposited on base metal, ASTM B 456, Type SC 2.

C. Mirror Glass: Nominal 6.0 mm (0.23 inch) thick, conforming to ASTM C 1036, Type I, Class 1, Quality q2, and with silvering, electro-plated copper coating, and protective organic coating.

D. Galvanized Steel Mounting Devices: ASTM A 153, hot-dip galvanized after fabrication.

E. Fasteners: Screws, bolts, and other devices of same material as accessory unit or of galvanized steel where concealed.

F. Keys: Unless otherwise indicated, provide universal keys for access to toilet accessory units requiring internal access for servicing, re-supply, etc. Provide minimum of six (6) keys to Owner's representative and obtain receipt.

2.3 TOILET TISSUE DISPENSERS

A. Double-Roll Dispenser: Surface Mounted Multi-Roll Toilet Paper Holder: Provided by Owners Vendor. General Contractor to coordinate locations of blocking and installation of equipment.

2.4 PAPER TOWEL DISPENSERS

A. Surfaced-Mounted Towel Dispensers: Provided by Owners Vendor. General Contractor to coordinate locations of blocking and installation of equipment.

2.5 GRAB BARS

A. Stainless Steel Type 304: Sizes as indicated on drawings. Provide grab bars with wall thickness not less than 18 gage (.050 inch) and as follows:

1. Mounting: Concealed, manufacturer's standard flanges and anchorages.

2. Clearance: 1-1/2 inches clearance between wall surface and inside face of bar.

3. Gripping Surfaces: Manufacturer's standard nonslip texture.

4. Heavy-Duty Size: Outside diameter of 1-1/2 inches.

B. Shower Stall Locations: Electrostatic powder coat paint system and stainless steel type 304 base material. Sizes as indicated on drawings. Provide grab bars with wall thickness not less than 18 gage (.050 inch) and as follows:

1. Mounting: Concealed, manufacturer's standard flanges and anchorages.

2. Clearance: 1-1/2 inches clearance between wall surface and inside face of bar.

3. Gripping Surfaces: Manufacturer's standard nonslip texture.

4. Heavy-Duty Size: Outside diameter of 1-1/2 inches.

2.6 SOAP DISPENSERS

A. Liquid Soap Dispenser, Horizontal Tank Type: Fabricate for surface mounting, Provided by Owners Vendor. General Contractor to coordinate locations of blocking and installation of equipment.

2.7 SHOWER AND BATH ACCESSORIES

A. Shower Curtain Rod, Heavy-Duty: 1-1/4 inches OD, 18-gage (.050-inch) stainless steel, satin finish; furnish with 3 inches OD, minimum 20-gage stainless steel flanges with satin finish, designed for exposed fasteners.

2.8 TOWEL PIN

A. Towel Pin: Satin-finished stainless steel pin projecting nominal 3 inches from wall with rectangular wall bracket with backplate for concealed mounting.

2.9 ROBE HOOK

A. Double Robe Hook: Heavy-duty satin finished stainless steel double-prong robe hook; rectangular wall bracket with backplate for concealed mounting.

2.10 MIRROR UNITS

A. Standard Stainless Steel Framed Mirror Units: 17 1/2" x 29 1/2" Fabricate frame with channel shapes of not less than 20 gage (.040 inch), with square corners carefully mitered to hairline joints and mechanically interlocked. Provide in Type 430 bright polished finish.

2.11 FABRICATION

A. General: Only a maximum 1-1/2-inch diameter, unobtrusive stamped logo of manufacturer, as approved by Architect, is permitted on exposed face of toilet or bath accessory units. On either interior surface not exposed to view or back surface, provide additional identification by means of either a printed, waterproof label or a stamped nameplate, indicating manufacturer's name and product model number.

B. Surface-Mounted Toilet Accessories, General: Except where otherwise indicated, fabricate units with tight seams and joints, exposed edges rolled. Hang doors or access panels with continuous stainless steel piano hinge. Provide concealed anchorage wherever possible.

C. Recessed Toilet Accessories, General: Except where otherwise indicated, fabricate units of all welded construction, without mitered corners. Hang doors or access panels with full-length stainless steel piano hinge. Provide anchorage that is fully concealed when unit is closed.

D. Framed Mirror Units, General: Fabricate frames for glass mirror units to accommodate wood, felt, plastic, or other glass edge protection material. Provide mirror backing and support system that will permit rigid, tamperproof glass installation and prevent accumulation of moisture, as follows:

1. Provide galvanized steel backing sheet, not less than 22 gage (.034 inch) and full mirror size, with nonabsorptive filler material. Corrugated cardboard is not an acceptable filler material.

2. Mirror Unit Hangers: Provide system of mounting mirror units that will permit rigid, tamperproof, and theft proof installation, as follows:

a. Heavy-duty wall brackets of galvanized steel, equipped with concealed locking devices requiring special tool to remove.

PART 3 - EXECUTION

3.1 INSTALLATION

A. Install toilet accessory units in accordance with manufacturers' instructions, using fasteners appropriate to substrate and recommended by manufacturer of unit. Install units plumb and level, firmly anchored in locations and at heights indicated.

B. Secure mirrors to walls in concealed, tamperproof manner with special hangers, toggle bolts, or screws. Set units plumb, level, and square at locations indicated, in accordance with manufacturer's instructions for type of substrate involved.

3.2 ADJUSTING AND CLEANING

A. Adjust toilet accessories for proper operation and verify that mechanisms function smoothly. Replace damaged or defective items.

B. Clean and polish all exposed surfaces in strict accordance with manufacturer's recommendations after removing temporary labels and protective coatings.

END OF SECTION 10800

SECTION 12345 - LABORATORY CASEWORK

PART 1 - GENERAL

1.1 SECTION INCLUDES

A. Laboratory cabinet units.

B. Chemically resistant countertops.

C. Cabinet hardware.

D. Plumbing fittings and trim.

E. Preparation for installing utilities.

1.2 RELATED SECTIONS

A. Section 15000 - for Plumbing Fixtures.

1.3 SUBMITTALS FOR REVIEW

A. Procedures for submittals. Submit each item in this Article according to the Conditions of the Contract and Division 1 Specification Sections 01330 and 01340.

B. Shop Drawings: Indicate materials, component profiles and elevations, assembly methods, joint details, fastening methods, accessory listings, hardware location and schedule of finishes.

C. Product Data: Provide data for hardware accessories.

1.4 QUALITY ASSURANCE

A. Manufacturer Qualifications: Company specializing in manufacturing the Products specified in this section with minimum three years experience.

B. Fixtures, sinks and other items specified in this section to be provided and installed by casework manufacturer. Rough-in and final connection to be performed by Plumbing Contractor.

C. All casework hardware shall meet the requirements set forth in ANSI 117.1 and the North Carolina Building Code for handicapped accessibility.

1.5 DELIVERY, STORAGE, AND PROTECTION

A. Protect units from moisture damage.

1.6 ENVIRONMENTAL REQUIREMENTS

A. Section 01600 - Material and Equipment: Environmental conditions affecting products on site.

B. During and after installation of work of this section, maintain the same temperature and humidity conditions in building spaces as will occur after occupancy.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

A. **For any brand name or manufacturer of equipment listed in this specification, neither the Owner nor the Engineer guarantee that the listed name complies with the American Recovery and Reinvestment Act (ARRA) or meets the Buy American Requirements. The Contractor and Supplier are to refer to Division 1 specifications for contract requirements for compliance with ARRA/Buy American Requirements.**

2.2 WOOD MATERIALS

A. Plywood

1. Exposed Plywood: Red Oak Veneer exterior face of plain sliced, select Grade 1.
2. Interior Plywood: Hardwood Plywood, grade A veneer face, grade B back.
3. All plywood to be constructed with water resistant glue.

B. Solid Wood:

1. Exposed Solid Wood: Oak hardwood lumber, clean and free of defects.
2. Interior solid wood: Sound hardwood of selected species suitable for intended purpose.
3. All lumber shall be kiln dried to a uniform moisture content of six percent.

C. Glass in wall-hung cabinets shall be double-strength, grade "B" and 1/8" thick.

2.3 DRAWER CONSTRUCTION

A. Front: Solid Oak lumber.

B. Sides and Back: Hardwood lumber.

C. Drawer Bottom: 1/4" Tempered hardboard, set in on all four sides and glued.

2.4 BASE CABINETS

A. Sides, Backs and Ends: 3/4" Plywood, of type indicated by exposure.

B. Frame and Rails: Solid Hardwood, of species indicated by exposure.

C. Shelves: 3/4" Hardwood Plywood, adjustable, supported by metal standards (plastic will not be acceptable).

D. Doors: Hinged, 3/4" thick, solid oak rails on four sides, overlapping to provide dust-tight closure.

2.5 WALL CABINETS

A. Sides, Backs and Ends: 3/4" Oak Veneer Plywood.

B. Frame and Rails: Solid Oak.

C. Shelves: 3/4" Hardwood Plywood, adjustable, supported by metal standards (plastic will not be acceptable).

D. Doors: Hinged, glazed, and overlapping to provide dust-tight closure.

1. Glass: Double strength, Grade B, 1/8" thick.

2.6 TABLE FRAMES

A. Perimeter rails: Solid Oak hardwood with steel corner braces.

B. Legs: Laminated solid Oak secured to corner braces.

C. Shoes: Molded black polyethylene, with provision for floor clip.

2.7 CHEMICALLY RESISTANT COUNTERTOPS

A. Modified epoxy resin, of uniform mixture throughout, 1" thick, non-glare black.

1. All work tops shall have drip groove along exposed edges.

2. All edges shall be radiused.

3. Sinks shall be epoxy resin type, provide one wash sink, (18" x 15" x 8") and one lab sink (14" x 10" x 6") at locations indicated on the drawings.

4. Backsplashes shall be 4" high

2.8 HARDWARE

A. Shelf Rests: Formed steel.

B. Drawer and Door Pulls: Extruded aluminum, satin finish, 4" o.c.

C. Catches: Friction roller type, zinc plated steel catch with polyethylene roller and metal strike plate with slotted mounting holes for adjustability.

D. Drawer Slides: Galvanized steel construction, ball bearing nylon rollers with automatic, positive stops.

E. Hinges: 5-knuckle, semi-concealed.

2.9 FIXTURES

A. General: Fixtures to be supplied with the necessary shank connectors, lock nuts and washers for

attaching to countertops, curbs, or panels. Provide transitions for service equipment as specified in Section 15000. Fixtures shall be specially designed for laboratory use.

B. Vacuum Fittings: Single or 90 degrees double as indicated.

1. Chrome plated brass forgings.
2. Wing handle with color coded index button.
3. Integral serrated, non-slip hose tip.

C. Water Faucets with integral vacuum breakers: Single cold water key cock or mixing valve gooseneck, as indicated.

1. Chrome plated brass forgings.
2. Four-arm handle with color coded index button.
3. Integral serrated, non-slip hose tip.

D. Water Faucet with integral vacuum breaker at wash sink location: Deck mounted pedestal type mixing valve.

1. Chrome plated brass forgings.
2. Four-arm handle with color coded index button.
3. Swing-arm faucet.
4. Soap dish.

2.10 FINISHING:

A. Finish shall be manufacturer's standard type, resistant to the following chemicals:

1. Acetic Acid - 98%
2. Acetone
3. Ammonium Hydroxide - 28%
4. Benzene
5. Carbon Tetrachloride
6. Ethyl Acetate
7. Ethyl Alcohol
8. Ethyl Ether
9. Formaldehyde
10. Gasoline
11. Hydrochloric Acid - 37%
12. Methanol
13. Methyl Ethyl Ketone
14. Naphtha
15. Nitric Acid - 10%
16. Phosphoric Acid - 75%
17. Potassium Hydroxide - 50%
18. Sodium Carbonate - Saturate
19. Sodium Hydroxide - 40%
20. Sulfuric Acid - 25%
21. Toluene
22. Xylene

2.11 FABRICATION

A. Shop assemble casework for delivery to site in units easily handled and to permit passage through building openings.

B. Fit shelves, doors, and exposed edges with matching hardwood. Use one piece for full length only.

C. Door and Drawer Fronts: revealed overlay.

D. When necessary to cut and fit on site, provide materials with ample allowance for cutting. Provide trim for scribing and site cutting.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Verify location and sizes of utility rough-in associated with work of this section.

3.2 INSTALLATION

A. Set and secure casework in place; rigid, plumb, and level.

B. Use fixture attachments in concealed locations for wall mounted components.

C. Carefully scribe casework abutting other components, with maximum gaps of 1/32 inch. Do not use additional overlay trim for this purpose.

D. Secure cabinet, counter bases and table legs to floor using appropriate angles and anchorages.

E. Countersink anchorage devices at exposed locations. Conceal with solid wood plugs of species to match surrounding wood; finish flush with surrounding surfaces.

3.3 ADJUSTING

A. Adjust installed work. Test installed work for rigidity.

B. Adjust moving or operating parts to function smoothly and correctly.

3.4 CLEANING

A. Clean casework, counters, shelves, hardware, fittings, and fixtures.

END OF SECTION 12345

Exhibit D2-2

Section 3: Clarifications & Assumptions

Section 3: Clarifications & Assumptions

The following clarifications and assumptions were used to develop the estimate for GMP-2.

General Items

1. GMP-2 material and subcontractor pricing is based on proposals from vendors and subcontractors.
2. Garney has not included any City of North Port comments that are not already incorporated into the 100% Documents.
3. Garney has not included any cost impacts or changes that may be required by the City Building Department.
4. Sales tax has been included on all materials including Owner Direct Purchase. The tax savings for the ODP scope is provided as a deduct.
5. Price does not include the Wrap-Up GL Policy

Process Equipment Clarifications

1. 11130 Odor Control System – BioAir
    a. No heater will be provided in the Water Control Panel.
2. 11200/11203 Screening Washer and Bar Screen – Huber
    a. The mechanical screen will be Flexible Step Screen, not a vertical screen as shown on the mechanical drawings.
    b. Section 11204 – Sluicway (U-Trough) does not apply to this project.
    c. Huber does not require a service water connection at the screen. None is included.
    d. Only two solenoid valves will be provided at the WAP unit per Huber's recommendation.
    e. No spare parts will be provided for the step screen and WAP unit.
3. 11201 Grit System – Hydro International
    a. No performance guarantee or performance testing is included.
    b. Hydro International does not require any service water connections at the GritCup and SpiraSnail units. None is included.
    c. No controls will be provided for the GritCup unit. The manufacturer does not recommend or require controls for this unit.
    d. The SpiraSnail unit will be furnished without a position switch or motor temperature switch, which are shown on the electrical drawings.
4. 11300 Chemical Tanks – Heyward
    a. Down pipe will not be provided in the chemical tanks.
    b. Heat trace and insulation will not be provided on the chemical tanks.
    c. Ladders will not be provided on the chemical tanks.
    d. Leak detectors will not be provided on the chemical tanks.
5. 11400 Clarifiers – Ovivo
    a. The clarifier mechanism can be hot dipped galvanized in lieu of finish coated.
    b. Clarifier platforms and walkways will be furnished with checker plate.
6. 11500/11550 Diffused Aeration System – Xylem
    a. Factory testing of diffusers is not included.
7. 11501 Turbo Blowers – Sulzer
    a. The blower controls will not include an MCU.

   b. The specifications do not include enough information to provide wire-to-air information. Wire-to-air information is not included.
8. 11502 Anoxic Mixers – Xylem
   a. Xylem will furnish two mixers with integral VFD's and two constant speed mixers.
9. 11503 Dry Pit Pumps – Xylem
   a. Xylem will furnish vertically mounted dry pit pumps in lieu of the horizontal pumps specified.
   b. No spare shafts will be furnished for the dry pit pumps.
10. 11600 Filters – De Nora
   a. Backwash pump TDH will be 26'.
   b. De Nora will furnish the following manual valves with the Filter package:
      i. (2) 10" Backwash Pump Check Valves
      ii. (2) 10" Backwash Pump Isolation Gate Valves
      iii. (2) 6" Mudwell Pump Check Valves
      iv. (2) 6" Mudwell Pump Isolation Gate Valves
      v. (2) 10" Blower Isolation Butterfly Valves
      vi. (2) 8" Filter Drain Gate Valves
      vii. All check valves listed are cast iron swing check with bronze trim.
   c. De Nora will furnish the following automatic control valves with the Filter package:
      i. (2) 16" Filter Influent Butterfly Valves
      ii. (2) 18" Filter Effluent Butterfly Valves (modulating)
      iii. (2) 14" Clean Water Backwash Butterfly Valves
      iv. (2) 20" Dirty Backwash Water Butterfly Valves
      v. (2) 10" Air Control Butterfly Valves
      vi. (1) 6" Blower Unloading Butterfly Valve
      vii. All butterfly valves listed are cast iron body and disc.
11. 11601 Vertical Pumps – Flowserve
   a. The plant water pumps were changed from vertical pumps to self-priming end suction pumps. No specification was provided for these pumps. It is assumed that the manufacturer's standard pumps will be acceptable.
12. 11700 Centrifuge – Hiller
   a. Hiller's will provide a centrifuge with their standard bowl diameter. The bowl diameter does not match the specification requirements.
13. Septage Receiving Station – JWC
   a. JWC's "Monstertrack" control system is not included.

Work Package 1: Concrete

1. Tolerances for concrete flat work will be "Bullfloated" for hydraulic structures and "Straightedged" for non-hydraulic structures. Reference table 3.1 in Section 03110 for definitions.
2. A Class "C" form tolerance will be used on all formed surfaces. Reference table 3.1 in Section 03110 for definition.
3. No structural details were provided for the Septage Receiving Station. Dimensions for this structure were scaled from the mechanical drawings. Reinforcing steel quantity is based off of an estimated proportion of 250 lb/CY.
4. No structural details were provided for the Generator pads. Dimensions for these

slabs were scaled from the electrical drawings. The slabs were assumed to be 12" thick.
5. Vapor barrier will not be installed under any structures except the pre-engineered metal buildings.
6. Termite treatment will only be provided under slabs for the pre-engineered metal buildings.

Work Package 2: Mechanical

1. The monorail at the Solids Building will be modified as follows:
    a. Monorail will be supported from the metal building, not from an independent support system as shown on the Mechanical drawings.
    b. The hoist will be rated for three tons.
    c. The monorail will span the length of the building, but will not extend outside the building as shown on the Mechanical drawings.
    d. Minimum hook height is 12'-0" A.F.F.
2. No drain lines will be provided at the Mudwell or Clearwell as shown on the Civil drawings.
3. Dumpsters at the Headworks and Septage Receiving Station will be furnished by the City.
4. Epoxy lined ductile iron pipe will be provided at the locations identified in the Piping Schedule listed on the last page of Section 15050. All other ductile iron pipe will be cement lined.
5. All metal stairs and walkways will be aluminum.
6. All embedded grating angle and checker plate angle will be aluminum.
7. All process air pipe will be 304 stainless steel.
8. The Deep Injection Well (DIW) and monitoring wells are excluded. No drilling, casing, or testing is included. It was assumed that the well driller will install the DIW well up to and including the 18" gate valve shown on drawing M-8.2, and the Monitoring Wells up to the first flange as shown on drawing M-8.4.

Work Package 3: Yard Pipe

1. Epoxy lined ductile iron pipe will be provided at the locations identified in the Piping Schedule listed on the last page of Section 15050. All other ductile iron pipe will be cement lined.
2. All process air pipe will be 304 stainless steel.
3. Concrete pipe encasement will only be provided at the following locations:
    a. 16" Influent and 8" Drains @ MLE Tanks
    b. 16" Influent and 12" RAS @ Clarifiers
    c. 4" TWAS @ Digester
    d. All under slab pipe @ Filters
    e. All under slab pipe @ RAS/WAS Wetwell
    f. All under slab pipe @ Reject Tank
    g. All under slab pipe @ Solids Building
4. Buried valve position indicators will not be provided.
5. All valve extension stems will be carbon steel.

Work Package 4: Sitework

1. The berm added between Pond B-01 and the road in GMP-1 is no longer required. The berm is being replaced by an 8' tall precast wall with a 12' wide area for future landscaping. Note the following:
    a. The deduct for deleting the berm and the adder for the precast wall in included with GMP-2.
    b. Pond B-01 will be moved west by 12'. Work associated with the pond relocation is included with GMP-2.
    c. No landscaping on the west side of the precast wall is included with GMP-2.
2. No littoral shelf will be provided around Pond B-01.
3. Air diffusers will be provided at ponds rather than fountains as shown on the Civil drawings.

Work Package 5: Metal Buildings

1. Any revisions to the foundation and anchor bolt design will be provided by the Architect after reviewing building loads provided by the PEMB manufacturer.
2. Assumed foundations for each building will be sufficient for Pre-Engineered Metal Building load requirements. Any increases in reinforcing, slab size, or foundation size will result in a cost increase to the Contract.
3. Assumed that the manufacturer's standard wall colors for wall panels, roof panels, and split face block would be utilized.
4. Assumed manufacturer's standard spacing and locations for downspouts.
5. The Office/Control Building will have metal wall panels. No masonry is included at this structure.
6. No control joints will be provided for masonry.
7. Garney issued specifications for finishes at the metal buildings as none were provided with the design documents. These specifications define the basis of bid. Owner or City requested deviations from these specifications will result in a cost adjustment.
8. Insulation will be sized per the Architectural drawings. Any adjustments required to meet the energy code will require a cost adjustment.
9. No furnishings are included with the metal buildings. If the Owner or City require furnishings, they will be purchased and installed with under an allowance.
10. Signage will be provided at the Office/Control Building. Only the minimum quantity and type required by ADA regulations is included.
11. Manual overhead doors will be provided at the Office/Control Building. Motor operated overhead doors will be provided at the Headworks and Blower Building.
12. Man-doors at the Headworks will match those at the metal buildings.
13. Dimensions for all metal buildings are based off the architectural drawings.
14. The double doors at the MLE Blower/Electrical Building and Chemical/Electrical Building will be changed from 10'x7' to 6'x8'.
15. All finished ceilings will be 9'-0" A.F.F.
16. All wall tile in bathrooms will terminate 42" A.F.F.

Work Package 6: Painting and Coatings

1. No exterior or below grade concrete coatings are included.
2. Internal concrete coatings per Section 09900 – System 9 are included at the following structures:
    a. Headworks – walls and ceilings

   b. MLE Tanks – top 4' of interior concrete only
   c. Chlorine Contact Chamber
   d. Filters – Mudwell only
3. Internal concrete coatings per Section 09970 are included at the following structures:
   a. Headworks Channels
   b. Grit Chamber
   c. Scum Pump Station
   d. Site Lift Station
   e. Digester
4. Interior concrete coatings at the Clarifiers was addressed in GMP-1.
5. Exterior PVC pipe coating are included per Section 09900 – System 1 or 5.
6. Sherwin Williams products will be acceptable.
7. Epoxy modified cementitious mortar may be used in lieu of block filler.
8. No coating of stainless steel, aluminum, or galvanized metal.
9. No field painting of electrical conduit or instrument panels.
10. Assumed industry standard mechanical piping colors and identification.

Work Package 7: Instrumentation and Control

1. The integrator will furnish control panels for the Scum Pump Station, Site Lift Station, and Anoxic Mixers.
2. The "Rockwell" training specified in section 13350 for VFD's will be provided by Square D as part of the Owner Direct Purchase Contract.

Work Package 8: Electrical

1. Electrical subcontractor will furnish and install the surveillance system.
2. Bedding for duct banks will be native soil. No import of bedding is included.

Exhibit D2-2

Section 4: RFI Log

An RFI Log was developed to track questions and answers during the preconstruction process. The log reflects clarifications and design changes that may not be incorporated into the design documents yet, but were used to develop pricing for GMP-2. The RFI Log is attached for reference.

West Villages uthwest WRF
100% DESIGN CLARIFICATIONS

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
001	E-50	What is the height of the poles for Light fixture types C, D and E?	S. Reuter	02/13/18	RFI from Electrical sub	12-ft high, 4-inch diameter poles. Revised drawing will be provided under Addendum No. 2.	S. Bailey	02/15/18	ADD #2
002	E-15	Change Bar Screen #2 to future. Change associated conduit to "empty"	M. Glynn	02/15/18		Will change in addendum #2	D. Donaldson	03/14/18	ADD #2
003	E-27	Add MOV's to each dropleg at MLE Basin. I think the main shut-off MOV's can be deleted, but I don't have any notes about this from our meeting on 1/25/18. Need KH to weigh in.	M. Glynn	02/15/18		The valves on the droplegs will be manual. The influent valves will remain EMO.	S. Romano	03/14/18	Yes
004	E-31	Change Motor HP on WAS Pumps from 1.5 to 3.0. They are already shown correctly on the MCC diagrams.	M. Glynn	02/15/18		Will change in addendum #2	D. Donaldson	03/14/18	ADD #2
005	E-40	Add controls for hydropneumatics tank after KH finishes their design.	M. Glynn	02/15/18		No hydropneumatic tank needed. Pumps will be 7.5 Hp VFD.	S. Romano	03/14/18	Yes
006	E-42	Change Motor HP on Scum Pumps from 3.0 to 5.0. They are already shown correctly on the MCC diagrams.	M. Glynn	02/15/18		Will change in addendum #2	D. Donaldson	03/14/18	ADD #2
007	Electrical Drawings	Flow Switches (FS) and Space Heaters (SH) are shown where noted below. Submersible Pumps are noted with *. I have a note from the meeting stating that space heaters are only required for pumps over 20 HP. Most of the pumps are less the 20 HP, but still have them. Also some of the submersible pumps don't have flow switches. I'm not sure how it was decided that some pumps receive flow switches, and some don't. *IRML Pumps (15 HP): FS Drain Pumps (3 HP): FS, SH RAS Pumps (15 HP): FS, SH WAS Pumps (3 HP): FS, SH *REJ Pumps (2.5 HP): FS *Site LS Pumps (15 HP): none *Filter Influent Pumps (25 HP): FS *Filter Inf. Jockey Pump (3 HP): FS *Filter Backwash Pumps (15 HP): none *Mudwell Pumps (5 HP): FS Effluent Transfer Pumps (150 HP): FS, SH Plant Effluent Pumps (15 HP): FS, SH *Scum Pumps (5 HP): none	M. Glynn	02/15/18					

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

Garney
ADVANCING WATER

West Villages uthwest WRF
100% DESIGN CLARIFICATIONS

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
008	E-6	Items LP1111, 1270, 8311, 8318, 1112, 1275, 8312 & 8310 fed from Mcc-1 & 2 not shown on any plans. Need locations.	S. Reuter	03/05/18	Email from Electrical Sub	LP1111, 1112: Will be deleted from SLD. Previously shown on plan view for bar screen influent valves. These are now manual. LP1270, 1275: Will be deleted from SLD. Previously shown on plan view for bar screen effluent valves. These are now manual. LP8311, 8312: Will be deleted from SLD. Previously shown on plan view for Digester No. 1 valves. These are now manual. LP8318, 8310: Will be deleted from SLD. Previously shown on plan view for Digester No. 1 air damper and decant valves. These are now manual.	D. Donaldson	03/15/18	ADD #2
009	E-10	Item LP7451 and Scum Pump not shown on plans.	S. Reuter	03/05/18	Email from Electrical Sub	See drawing E-33 for LP7451 and drawing E-42 for Scum Pumps.	D. Donaldson	03/15/18	Yes
010	E-16	Cannot find LP2250, 7481, 7483, 7486, 7488, 7455 or 7456 on plans.	S. Reuter	03/05/18	Email from Electrical Sub	See drawing E-20 for LP2250. E-43 for LP7481, 7483, 7486 and 7488. E-33 for LP7455, and E-40 for LP7465.	D. Donaldson	03/15/18	Yes
011	Electrical Drawings	Where do we take the future conduits that are shown on the SWBD's, MCC's and PCP panels?	S. Reuter	03/05/18	Email from Electrical Sub	Empty conduit runs are shown on the plan views for structures to be installed under Phase 1. See drawing E-20 and E-31 for examples. Future conduits for future Phase 2 structures will be terminated at pull boxes. Notes will be added to the drawings in Addendum #2 to address this.	D. Donaldson	03/15/18	ADD #2
012	E-34	Drawing I-12 shows loops for communication between the Site Lift Station Control Panel and PLC-2. These communication circuits are not reflected on drawing E-34. Please update drawing E-34 to include additional circuits/components for discrete output signals.	M. Glynn	03/08/18	Email from Xylem	Conduit and wire requirement from LSCP to PCP1 is shown on Sheet E-5. We will update drawing E-34 to show the dry contacts and Mini-CAS. These changes will be included in the next submittal.	D. Donaldson	03/09/18	ADD #2
013	Spec 11900	Xylem has been in communication with the EOR, and was told that the TDH for the Site Lift Station pumps would be increasing from 30' to 41'. If this is the case, the pumps will change from 15HP to 20HP, and the pump control panel will need to be modified. Please advise if the TDH will increase. Note that this change will increase the cost for the Site Lift Station equipment, which was included in GMP1. The cost increase can be handled in GMP2 if necessary.	M. Glynn	03/08/18	Email from Xylem	The pump design has not changed and they are still rated for 1000 gpm at 30 ft TDH. The HP will remain the same.	M. Kender	03/09/18	Yes

West Villages uthwest WRF
100% DESIGN CLARIFICATIONS

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
014	SS-2 Spec 16800	Section 16800 1.01B (supplier)shall furnish all labor, material, equipment, programming, services and incidentals required to install and place into operation a personal computer based system configured as shown on the contract drawings and specified herein." Note 1 on Drawing SS-2 " the cameras and NVR with application software shall be owner furnished and installed by the contractor." Please clarify	S. Reuter	03/12/18	Email from I&C Sub	The cameras and NVR with software will not be furnished by the Owner. System Supplier (Div. 13 Integrator) shall furnish materials and services (i.e. programming, start-up, etc.) from the City's preferred vendor, Tyco. Revised specifications and drawings will be provided via Addendum #2.	D. Donaldson	03/15/18	Yes
015	Spec 16800	Section 16800 2.02 6 has eliminated the Axis cameras however all the other equipment 2.03 A and B specified Axis software and desktop terminals. Are the Arecont AV12716-NL compatible?	S. Reuter	03/12/18	Email from I&C Sub	The required equipment and software in 2.03, A and B will be revised via Addendum #2 to reflect components as verified by Tyco.	D. Donaldson	03/15/18	ADD #2
016	SS-2	Drawing SS-2 Pole Mtd. Camera Detail shows a 30' White Aluminum pole 120MPH wind. Is there a manufacturer or specification? Who will be responsible for installing the Camera poles?	S. Reuter	03/12/18	Email from I&C Sub	The camera pole should be furnished and installed by the electrical subcontractor.	S. Bailey	03/14/18	Yes
017	Spec 16800	Section 16800-1.01 D Who is Tyco Service Systems? Are they the owners preferred subcontractor?	S. Reuter	03/12/18	Email from I&C Sub	Tyco is the City of North Port's preferred provider. The integrator should include material/service pricing from Tyco in their proposal.	S. Bailey	03/14/18	Yes
018	Spec 13300	Section 13300 1.01 C Please add Curry Controls Company of Lakeland, Florida to the approved SYSTEM SUPPLIER.	S. Reuter	03/12/18	Email from I&C Sub	Curry Controls will be added as an approved system supplier.	S. Bailey	03/14/18	ADD #2
019	E-17 & E-30	Drawing E-30 shows a space heater on the drain pumps. There is no space heater shown on the drain pump VFD diagram on E-17. Similarly, drawing E-17 shows a seal fail circuit on the VFD diagram, but the seal fail indicator "SF" is not shown on E-30.	M. Glynn	03/14/18	Discussed during meeting on 3/14.	No space heater or seal fail is required on the drain pumps.	S. Bailey	03/14/18	ADD #2
020	E-18, E-40, I-8	The VFD diagram on E-18 shows two flow switches - one for seal water and one for pump flow. It also shows a high pressure switch. Advise where the high pressure switch will be installed and what control function it will have. The pressure switch appears to duplicate the low flow pump control. Note that drawing I-8 shows the high pressure switch on the seal water line in lieu of a flow switch.	M. Glynn	03/14/18	Discussed during meeting on 3/14.	No flow switch is needed for the seal water system. A high pressure switch is not needed for the pump or seal water system.	S. Bailey	03/14/18	ADD #2
021	E-15	Revise the BSCP Riser Diagram to show barscreen #2 as future.	M. Glynn	03/15/18		Will be corrected in Addendum #2.	BEC	03/21/18	ADD #2
022	E-16, E-25, I-2	LP1010 includes a level switch that is shown as a LLS on E-16, a LSH on E-25, and a LSHH on I-2. Advise which is correct and modify the other drawings accordingly.	M. Glynn	03/15/18		This should be a LSHH per I-2.	BEC	03/21/18	Yes
023	E-5, E-24	Drawings E-5 & E-24 show a Local Operator Panel (LOP) for the WAP unit. This LOP is not shown on the P&ID drawings. What does this unit consist of, and is it still needed since the WAP unit is moving to the top of the Headworks?	M. Glynn	03/15/18	Huber	The LOP will be delered in addendum #2.	BEC	03/21/18	ADD #2

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024	E-24, I-2	The referenced drawings show a temperature switch and position switch/transmitter on the Grit System screw auger. Hydro International does not furnish these instruments with their system, nor are they required by section 11201. Please confirm that these instruments can be deleted.	M. Glynn	03/15/18	Hydro Int'l	The position switch and temperature switch can be deleted. BEC noted that this would leave the motor without any protection.	BEC	03/21/18	ADD #2
025	E-25	Drawing E-25 shows the barscreen channel level sensors (LP1131) routed to PCP-1. This is not consistent with drawings E-15 and I-2, which show the LIT routed to the BSCP. Confirm that the LIT should be routed to the BSCP.	M. Glynn	03/15/18		The barscreen channel level sensors should be routed to the BSCP. This will be corrected in Addendum #2.	BEC	03/21/18	ADD #2
026	E-15, E-25, I-2	Drawing E-25 shows an LSH in the barscreen channel. This level switch is not shown on drawing E-15 and I-2. Confirm it should be deleted.	M. Glynn	03/15/18		The level switch can be deleted. Will be corrected in Addendum #2.	BEC	03/21/18	ADD #2
027	M-1.X, E-15, E-25, I-2	The referenced drawings show a service water connection with a solenoid valve at the barscreen. Huber does not require a service water connection for their screen. Please confirm the barscreen service water line and associated solenoid valve can be deleted.	M. Glynn	03/15/18	Huber	Huber equipment shall be installed per manufacturers specifications. If Huber doesn't require the nozzle then it can be removed	S. Romano	03/21/18	Yes
028	I-2	Drawings E-16 and E-25 show an LIT (LP1500) in the Headworks effluent channel. This instrument is not shown on drawing I-2. Please add it to the drawing.	M. Glynn	03/15/18		The referenced LIT is redundant and can be deleted.	S. Bailey S. Romano	03/21/18	ADD #2
029	E-25	Provide detail references for the equipment racks on drawing E-25. Two racks reference detail "XX" and one rack does not reference any detail.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
030	M-1.X, E-24, I-2	3 solenoid valves are shown at the WAP unit on the referenced drawings. Huber only requires 2 solenoid valves. Please confirm only 2 valves are required; one to feed the drain pan and the other to feed the wash and press zones.	M. Glynn	03/15/18	Huber	Huber equipment shall be installed per manufacturers specifications. If Huber doesn't require 3 valves then 2 valves is adequate.	S. Romano	03/21/18	Yes
031	M-1.X, E-24, I-2	The referenced drawings show service water lines with three solenoid valves for the GritCup/SpiraSnail. Hydro International does not require any service water/valves for their system. Please confirm that the service water and associated valves can be deleted.	M. Glynn	03/15/18	Hydro Int'l	If Hydro doesn't require the services line and valves then they can be removed.	S. Romano	03/21/18	Yes
032	E-29	Change the callout for "LP8137" on drawing E-29 to "LP8317" to match drawing E-16.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
033	E-34	The flow elemet (LP8999) is shown routed to MTS-3. Revise to show this device routed to the FIT.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
034	E-16, E-37	The loop numbers for metering pump skids #1 & 2 are inconsistent on drawings E-16 and E-37. Please revise.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
035	E-16, E-39	Drawings E-16 shows LP5305 and LP5700 routed to PCP-2. Drawing E-39 shows these same instruments routed to PCP-4. Advise which drawing is correct.	M. Glynn	03/15/18		PCP-2 is correct. Drawing E-39 will be updated in Addendum #2.	BEC	03/21/18	ADD #2
036	I-2	Drawing I-2 shows operators for (4) gates at the Headworks. Per previous conversations, these gates will be manually operated. Please delete the gate operator/controls from drawing I-2.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2

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037	E-20, I-4	The Turbo Blower manufacturer recommends adding a differential pressure switch on the blower inlet filters. The switch will be wired back to the local blower control panel. Please add this switch to drawings E-20 and I-4.	M. Glynn	03/15/18	Hydra Services	Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
038	E-4, E-20	The Turbo Blower manufacturer requires a separate 480VAC, 10A service for auxiliary power at each blower. Please add this circuit.	M. Glynn	03/15/18	Hydra Services	The additional circuits will be added in Addendum #2.	BEC	03/21/18	ADD #2
039	I-6	Drawing I-6 shows a "YS" and "ZSH" on the Filter Feed Pumps. Confirm that these designations shoud be replaced with "SF" and "FS" respectively.	M. Glynn	03/15/18		YS is correct for seal fail per the P&ID legend. ZSH will be changed to FS in addendum #2.	BEC	03/21/18	ADD #2
040	M-6.X, I-6	The line sizes shown on drawing I-6 do not match the line sizes shown on the mechanical drawings. Confirm the mechanical drawings are correct.	M. Glynn	03/15/18		Line sizes will be removed except for flow meters in Addendum #2.	BEC	03/21/18	ADD #2
041	I-7	Drawing I-7 shows the Mudwell pumps outside the Mudwell Tank. These pumps are submersible and should be shown inside the tank. Please revise the drawing accordingly.	M. Glynn	03/15/18		Will be addressed in Addendum #2.	BEC	03/21/18	ADD #2
042	Spec 11600	Section 11600-2.03 lists the backwash air unloading control valve as 4". De Nora recommends a 6" valve, and included this with their equipment package. Please confirm this is acceptable.	M. Glynn	03/15/18	De Nora	Fixed in 100% specs.	KH	03/21/18	Yes
043	M-6.X, I-7 Spec 11600	The valve types shown on the mechanical drawings, P&ID drawings, and section 11600 do not match. De Nora recommends butterfly valves for all valves listed in section 11600-2.03 except the filter drain valves, which are plug valves. Confirm this is acceptable (this is how De Nora priced the equipment package).	M. Glynn	03/15/18	De Nora	Use the following valve types for manual valves and check valves: - Swing check valves - Gate valve for filter drain valve - Gate valve for the mudwell - Manual 10" gate valves for backwash discharge isolation valves.	S. Romano	03/21/18	Yes
044	M-6.X	De Nora requires a seal-loop in the air supply piping between the backwash air blowers and the filters with a pipe centerline at least 5' above the filter influent weir elevation. This could be accomplished by increasing the height of the entire air supply header, or by putting in a loop. Without this loop, water from the filters can travel back to the air blowers. Please provide direction.	M. Glynn	03/15/18	De Nora	The air piping elevation needs to increase to provide the 5' separation between the Filter Weir and the centerline of the pipe.	M. Kender	03/21/18	Yes
045	Spec 11600	Section 2.06.B requires backwash pumps to have a TDH of 13.5'. De Nora recommends increasing the TDH to 26' as the current TDH is not sufficient for all the operating scenarios of the filters. Please provide direction. Note that De Nora quoted the project based on 13.5' TDH.	M. Glynn	03/15/18	De Nora	KH will be revising Section 11600 with conformed set. Submersible pumps should be rated for 3080 gpm at 26.0' TDH, and shall be driven by 35 HP. Electrical drawings were updated with Addendum #2.	M. Kender	03/21/18	Yes
046	I-10	Spec 11551-2.03.J requires local control panels with outputs for the PD Blowers. It appears that these panels should be added to drawing I-10 as they will be providing information to the PCP that is separate from the information provided by the PD Blower VFD's.	M. Glynn	03/15/18	Aerzen	The latest electrical and I&C drawings added a fiber patch panel near the PD Blowers for LCP communication.	S. Bailey	03/21/18	Yes

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047	M-6	The invert elevation of the 18" Filter Effluent Line penetrates the wall of the Filters at the same elevation as the slab. This creates a potential conflict with the waterstop at the slab/wall intersection.	L. Bryant	03/14/18	Phone call from Lewis	Garney suggested either wrapping the wall sleeve with hydrophilic waterstop, or blocking out the slab for the sleeve and modifying the reiniforcing to allow the PVC waterstop to be depressed.	M. Glynn	03/14/18	Yes
048	E-18	The pre-lubrication system was discussed during our conference call on 03/14/18. This is shown on the electrical drawings and P&IDs based on the requirement in Specification Section 11601, 2.02, G, requires solenoid valve and pressure switch. Please confirm this spec requirement. We will update E-18 accordingly.	D. Donaldson	03/16/18	Email from BEC	Pre-lube system is only needed for the Plant Water pumps. It is not needed for the Effluent Pumps. BEC will add a note to this effect in Addendum #2.	S. Romano	03/21/18	ADD #2
049	I-12	Should the integrator furnish the local control panels for the Site Lift Station and Scum Pump Station?	M. Glynn	03/20/18	Email from I&C Sub	The integrator should furnish the lift station and the Scum Pump control panels.	S. Bailey	03/21/18	Yes
050	E-51	Is aluminum an acceptable alternative to the specified 316SS instrument stands?	M. Glynn	03/20/18	Email from I&C Sub	Aluminum is acceptable for the back panel and sunshields. Stainless steel should be used for support system.	S. Bailey	03/21/18	Yes
051a	E-51	Advise if the instrument sun shields are required to be powder coated white.	M. Glynn	03/20/18	Email from I&C Sub	All sunshields should be powder coated white per section 13310.3.01.E.	S. Bailey	03/21/18	Yes
051b	Spec 13310	During the group discussion on question #051, BEC pointed out that the specs require all exterior control panels to be powder coated white. BEC will revise Div. 11 specs that require equipment vendors to furnish control panels. The specs will be revised to incorporate the powder coating requirement.	S. Bailey	03/21/18		All exterior NEMA panels should be powder coated white per section 13310.3.01.E. Div. 11 specs will be updated accordingly.	S. Bailey	03/21/18	ADD #2
052	Specifications	The 100% specs do not include a section for the pre-engineered metal buildings.	M. Glynn	03/21/18		There are no specs for the PEMB. All requirements are on the Architectural drawings.	A. Miele	03/21/18	Yes
053	S-2.1, S-3.1	S-2.1 & S-3.1 Digester/Anoxic Wall: Where does each "wall reinforcement" start and stop? Walls 5, 4, and 3 are all shown on the same wall. Same question on the MLE Center wall (2 and 4 shown), and the opposite MLE wall (1 and 3 shown).	R. Archer	03/21/18		Wall types break at wall intersections.	A. Miele	03/21/18	Yes
054	C-22	Sheet C-22 Force Main Crossing Plan: Note "Begin Horizontal Directional Drill. See Detail for Coupling Transition" – I could not locate the referenced detail, please provide or advise where it can be found.	R. Archer	03/21/18		KH provided a detail for the transition coupling on 4/11.	M. Kender	04/11/18	Yes
055	Spec 01300	The submittal spec section (01300) references an "Exhibit A" to be used with all submittals, but is not included in the specs.	R. Archer	03/21/18		Garney can use their standard submittal cover sheet in lieu of Exhibit A.	S. Romano	03/21/18	Yes
056	C-15	Does West Villages want to proceed with the future berm shown in Section M-M on drawing C-15.	M. Glynn	03/21/18		West Villages wants the berm. Garney will provide CAD file with reduced pond size by COB on 3/21.	A. Miele M. Glynn	03/22/18	Yes

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057	Spec 09900	Section 2.4 references spec sections 07100 and 07150 for below grade exterior coatings. These specifications were not provided. Please confirm that exterior, below grade coatings are not required.	M. Glynn	03/21/18		Confirmed.	S. Romano	03/28/18	Yes
058	Spec 09900	Section 2.4 does not require exterior, above grade coatings on concrete structures. Garney included exterior coatings for the prestressed tanks in GMP1. Please advise if this coating should be deleted to comply with the spec.	M. Glynn	03/21/18		No exterior coatings are required. Delete exterior coatings on prestressed tanks.	S. Romano	03/28/18	Yes
059	Spec 09900	Advise if the submerged clarifier equipment can be hot dip galvanized instead of finish painted. This could result in a cost savings to the Owner.	M. Glynn	03/21/18		HDG is approved for use.	S. Romano	03/28/18	Yes
060	M-1.2	Shown overall dimensions are wrong. The right side of the building has 2 major lengths (28'10" and 14'0") that add up to a length of 42.83'. The Length of almost the same on the left side has 66'11". The scale is right for the 2 shorter lengths so I assume the 66' is wrong.	J Kerr	01/15/18	90% Question - 66'11" Still shown	Follow dimensions on structural drawings.	A. Miele	03/28/18	Yes
061	C-21	Note 14 on sheet C-21 references sheet C-5A, please provide.	J. Smith	01/16/18	90% Question	This is a misprint. Note 15 should reference the joint restraint table on drawing C-23.	KH	03/28/18	Yes
062	M-4.1	Please confirm the clarifiers are 65' ID.	S Smith	01/16/18	90% Question - ID not shown and discrepancies between structural and mechanical drawings	Clarifier ID shown on drawing M4.4. This is the correct dimension.	KH	03/28/18	Yes
063	E-40, M-7.3	Some Instruments shown on E-40 are not shown on M-7.3 such as Flowmeter, PIT, and PE	SJR	01/17/18	90% Question - No change to 100%, Flowmeter not shown	A flow meter is not required for the plant water pump. The pressure transmitter is required, and should be located as shown on the electrical drawings.	KH	03/28/18	Yes
064	M-4.4, M-4.6	Scum piping is called out to be 4" on drawing M-4.4 and 6" on M-4.6. Please confirm that it is to be 6".	M. Wadowick	01/17/18	90% Question - Not updated on M-4.6	All scum piping can be 4".	KH	03/28/18	Yes
065	11700 Centrifuge	The Bowl inside diameter in the specs is 26 in but the model number specified for Hiller is 570mm and if my math is correct that calculates to a 22.44 in inside diameter. We are using the smaller diameter for Alpha Laval and Flottweg, please confirm.	TMB	01/16/18	90% Question - Clarified Verbally, not in specs	Hiller's standard bowl diameter for model DP574 is acceptable.	KH	03/28/18	Yes
066	11130 Odor Control	2.06.A requires a heater in the Water Control Panel. This is not offered by the specified manuf. Confirm it can be deleted.	TMB	02/02/18	90% Question - Clarified Verbally, not in specs	The heater is not required.	S. Romano	03/28/18	Yes
067	11300 Chem Tanks	2.05.B.4 requires down pipes. Confirm these can be deleted.	TMB	02/02/18	90% Question - Clarified Verbally, not in specs	Down pipes are not required.	S. Romano	03/28/18	Yes

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068	11601 Vertical Pumps	2.02.E: Bearing and bearing retainers materials are not specified. Bronze and cast iron, respectively were assumed. 2.02.F: It wasn't specified if threaded or flanged column is required, so flanged was assumed. 2.02.F: The specs don't specify discharge head material. Since the pump will be running on VFD, we recommend specifying carbon steel. 2.02.G: Flowserve would provide the ports for the pre-lubrication system and solenoid valve. Controls to be provided by others.	TMB (Carter VerPlanck)	02/08/18	90% Question - Clarified Verbally, not in specs	2.02.E - Bronze and cast iron are acceptable 2.02.F - Flanged is acceptable. 2.02.F - Carbon steel is acceptable 2.02.G - Acknowledged	S. Romano	03/28/18	Yes
069	11601 Vertical Pumps	2.04.A.2.b: The family of curves is to be created using Affinity laws 2.09: Tnemec N140 coating was assumed. - Motor enclosure and shaft type weren't provided in VTP section, so TEFC and VSS were assumed. - Sections for above speed critical speed	TMB (Carter VerPlanck)	02/08/18	90% Question - Clarified Verbally, not in specs	2.04.A.2.b - Confirmed 2.09 - Manufacturer's standard finish coating is acceptable.	S. Romano	03/28/18	Yes
069a	I-2, I-8	There is are two samplers shown on the Electrical and I&C drawings located at the Headworks and Effluent PS. The sampler requirements are not included with the specifications. Please provide sampler requirements.	M. Glynn	03/22/18	Email from I&C Sub	Samplers details are provided in Addendum #2 memorandum. Revise the model specified in addendum #2 from ISCO 4700 to ISCO 5800.	D. Donaldson	03/28/18	Yes
070	M-8.1	Drawing M-8.1 shows the make/model of the DIW flow meter "Ultramag Model UM06-18", whereas specification 13310 lists E+H, no equal. Will the Ultramag be acceptable in addition to the E+H magmeters?	M. Glynn	03/22/18	Email from I&C Sub	Please follow the div 13 specs. E+H sole source.	S. Bailey	03/22/18	Yes
071	A-2.1, M-14.1	Blower and Electrical Building Outside Dimensions do not match between mechanical and architectural drawings. Building is 77'0"x30'0" on A-2.1 vs. 76'4"x31'4" on M-14.1. Please confirm the Architectural dimensions are to be used.	R. Archer	03/22/18		Use dimensions from Arch. Drawings.	S. Romano	03/28/18	Yes
071a	A-2.1, A-3.1	The 10'-4" double door opening takes up too much room on the interior walls (impacts room for electrical gear). Suggest revising door width to 6'-4" and door height to 9'-0"	D. Donaldson	03/28/18		Suggesting is acceptable.	S. Romano	03/28/18	Yes
072	A-4.2	Solids Handling Building North and South Wall Elevations are mislabeled. If the crane is to extend through the South wall, should this wall have the half wall panel to EL 12'? Consider removing wall panels altogether or installing swinging doors with cutout for crane rail.	R. Archer	03/22/18		Put the opening on the south wall where the crane runs through.	S. Romano	03/28/18	Yes
073	M-13.5	Please provide the elevations for the crane rail, the required minimum picking height for the equipment (floor/road to base of equipment), horizontal travel, loading requirements and truck access space required.	R. Archer	03/22/18		Minimum hook height = 12'-0" AFF Hoist is not motorized Hoist and monorail should be rated for 3 Tons.	S. Romano	04/13/18	Yes
074	M-13.6	Please provide crane rail base support structural details for the supports outside of the metal building foundation.	R. Archer	03/22/18		The monorail will be supported from the metal building. Reference Addendum #6 for clarification.	S. Romano	04/13/18	Yes

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075	M-7.1 & C-4A&4B	8" NPW (W3) is shown on M-7.1 while C-4B shows this line transitioning to 6" after it is buried and thereafter. Please confirm that 6" pipe should be installed throughout the plant for W3	R. Archer	03/22/18		Plant water should be 6" including the header at the pumps.	S. Romano	03/28/18	Yes
076	C-4A, M-2.2	W3 is shown as 6" on C-4A to the MLE tank and 2" on sheet M-2.2. Please advise whether or not 2" is acceptable from the 6" main line to the MLE tank	R. Archer	03/22/18		The line between the 6" W3 loop and the MLE Tanks should be 2".	S. Romano	03/28/18	Yes
077	M-8.1, M-8.2	The manufacturer and model numbers listed on the M-sheets for instruments need to be deleted. Please see below references: 1. M-8.1 Deep Injection Well: calls for an Ultramag model UM06-18 by McCrometer or approved equal. 2. M-8.2 Deep Injection Well: PIT shown as E&H Cerabar S PMC71 or approved equal.	D. Donaldson	03/22/18		The specs should govern make/model of instrumentation.	S. Romano	03/28/18	Yes
078	Spec 13350	With the electrical switchgear being Schneider, does the Integrator need to provide Rockwell training in in section 13350 for: - VFD and soft start drive maintenance and troubleshooting - VFD communications	M. Glynn	03/22/18	Email from I&C Sub	Schneider will need to furnish an equal amount of training. We will not be specifying it but will review it during shop drawing review.	S. Bailey	03/22/18	Yes
079	Spec 11503	Xylem was told by Kimley-Horn that they were going to update the spec to reflect the Vertically mounted Submersibles. The wording of Section 11503 still describes a horizontal mount and is descriptive of a bearing frame application. I.E. Submersible don't have alignment requirements, etc. There was also discussion about updating /revising the spare part requirements for the 11503 pumps which wasn't reflected. (No-one ever requires spare shafts for a submersible pump—these weren't included in our original scope as I was told they were going to take them out.)	M. Glynn	03/23/18	Xylem	The dry pit submersibles will be vertically mounted and spare shafts are not required.	S. Romano	03/23/18	Yes
080	M-6.X, C-4B	Drawing C-4B shows the 8" drain line connected to the Mudwell and Clearwell. This is not reflected on the M-6.X series drawings. Please advise if drains are required for the Mudwell and Clearwell. If so, provide details.	M. Glynn	03/23/18		The M drawings are correct. No drains for the mudwell and clearwell.	S. Romano	03/23/18	Yes
081	M-6.2, C-4B	Drawing M-6.2 shows the drain line extending to the east past Filter #2 with a 90 deg. bend/plug for future connection. Drawing C-4B does not show the drain extending past the Filter #2. Please confirm that drawing M-6.2 shows the east extents of the drain line correctly.	M. Glynn	03/23/18		The M drawings are correct. There should be a drain line extension to the future cell.	S. Romano	03/23/18	Yes

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082a	A Drawings	There is a substantial amount of missing information in the architectural drawings which will require additional details and specifications such as: 1. Ceiling height for ops bldg rooms 101-115 or indicate if all are 9'0" from FF 2. Wall elevations showing tile and gypsum board in restrooms 3. Suspended ceiling specs	R. Archer	03/23/18		1. Yes, all rooms are 9' from FF 2. Typically the tile and gypsum board stop at 42"-48" from FF on all bathrooms. 3. Company, brand, and model number was not provided. Please refer to section and detail sheets for the specifications that must be met for the ceilings.	A. Miele	03/26/18	Yes
082b	A Drawings	4. Locker specs/information 5. Typical details for toilet accessories, mirrors, toilets, lockers, benches, water fountain, etc. 6. Restroom accessories schedule and specs 7. Door hardware/frame schedule and specs 8. Typical details for Windows, Doors, etc. 9. Are lite kits required in any Doors 10. Additional information for book shelves, cabinets, lab room equipment, etc. Are all cabinets to be the same?	R. Archer	03/23/18		4. Locker specifications are not provided (City of North Port). 5-9. These details have not been 10. Dwg A.15has typical cabinet section. Additional specifications are not provided.	A. Miele	03/26/18	Yes
082c	A Drawings	11. Signage requirements	R. Archer	03/23/18		11. Dwg A1.1 has list of codes that must be met for items such as ADA, safety, and fire. No additional signage is required unless specified by the City of North Port.	A. Miele	03/26/18	Yes
082d	A Drawings	12. Masonry control joints	R. Archer	03/23/18		12. Masonry control joints aren't required on any of the buildings. None of the walls are load bearing and none exceed required height and length for masonry joints.	A. Miele	03/26/18	Yes
082e	A Drawings	13. Reinforcing steel requirements for precast lintels	R. Archer	03/23/18		13. Lintels are already pre-casted with steel in them. A2.1 or any of the floor plans provide lintel steel requirements.	A. Miele	03/26/18	Yes
082f	A Drawings	14. Are the chemical and blower buildings to receive colored split face block or painted stucco? 15. Solids Handling building slab elevations	R. Archer	03/23/18		14. Elevations and sections show colored split face block. 15. Refer to foundation plans for elevations and also on A4.2.	A. Miele	03/26/18	Yes
082g	A Drawings	16. Loading requirements for the monorail structural hoist system	R. Archer	03/23/18		16. Loading requirements will need to be obtained from the manufacturer and given to the steel building manufacturer for beam design.	A. Miele	03/26/18	Yes
083	09900.2.05 B.6	Please provide the Finish Coat Product names for Tnemec and Glidden	R. Archer	03/26/18		Provide a shop drawing for the coatings for approval.	S. Romano	03/28/18	Yes
084	S-20.2/M-16.1	Detail 7/S-20.2 Equipment Pedestal Schedule - The reject pump and motor dimensions and shape do not match the one shown on M-16.1. Please advise what the required dimensions are as well as reinforcing schedule for the "U" Pedestal shown on M-16.1.	R. Archer	03/26/18		KH is working on the details internally. Will be part of the conformed set. Garney's pricing will be based on the structural drawings.			No

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Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
085	M-1.2	Please include details for the required doors at the headworks structure including roll up door.	R. Archer	03/26/18		Use the same type that will be at the metal buildings.	S. Romano	03/28/18	Yes
086	M-1.2, M-15.1	Confirm that dumpsters at the Headworks and Septage Receiving Station will be furnished by Owner.	M. Glynn	03/26/18		Dumpsters will be furnished by the City.	A. Miele	04/04/18	Yes
087	Spec 11501	Sulzer has not inducted a MCU per Section 11501-2.06.B, Section 13325-1010 and Section 1330-1.01C, the MCU will be provided by others	ABS Sulzer	03/27/18		Turbo Blowers are controlled by PCP-1. No MCU is required.	D. Donaldson	03/28/18	Yes
088	Spec 11501	Section 11501-1.02.A.4: Sulzer confirms that the electric motor used in our HST Blower is specially designed for high speed application and is specifically been designed to work with the Vacon VFD. The detail of this design is proprietary information. Sulzer confirms that the HST blowers, as proposed for this project, will function reliably and provide the expected usable life.	ABS Sulzer	03/27/18		Confirmed.	D. Donaldson	03/28/18	Yes
089	Spec 11501	Section 11501-1.03.A: Sulzer will provide its standard 2 year warranty coverage.	ABS Sulzer	03/27/18		A 2 year warranty is acceptbale for the Blowers and VFD's	D. Donaldson	03/28/18	Yes
090	Spec 11501	Section 11501-2.02 A. Sulzer will provide a blower 5" discharge flange follow by a combined diffuser cone silencer that transitions from 5" to 8" flange. Therefore, the check valve and manual valve will be 8" in size.	ABS Sulzer	03/27/18		8" is acceptable.	S. Romano	04/18/18	Yes
091	Spec 11501	Section 11501-2-03.D.10: Specific test points were not provided that require power input calculation. Therefore, Sulzer does not have enough information to provide wire to air power information.	ABS Sulzer	03/27/18		The test is not required, and will be removed from the specs.	S. Romano	04/18/18	No
092	Spec 11376	Section 11376-2.06.J: Sulzer will supply their standard Air Pressure and Air Temperature Sensors. These sensors are located internally in the HST Blower Package.	ABS Sulzer	03/27/18		Manufacturer's standard instruments are acceptable.	D. Donaldson	03/28/18	Yes
093	E-Drawings	Please note that the power grounding wire needs a minimum size per our Installation and Maintenance instructions. Power Wiring needs to to be sized per NEC and local codes.	ABS Sulzer	03/27/18		E-4 shows a #4 wire for grounding per NEC code.	BEC	03/28/18	Yes
094	I-4	Please note that a Pressure Differential Switch needs to be installed on the Inlet Filters and wired back to the HST Blower Enclosure Control Terminal.	ABS Sulzer	03/27/18		Corrected in Addendum #2	BEC	03/28/18	Yes
095	E-20	Please note that the HST 2500 unit does require a separate 480 VAC, 10A service for the Auxiliary Power.	ABS Sulzer	03/27/18		Corrected in Addendum #2	BEC	03/28/18	Yes
096	M-14.1, M-14.2	In dwg M-14.1 and M-14.2 no inlet connection is shown. Per spec 2.06.C-F several inlet components are required. Therefore Sulzer will provide these as listed in the spec.	ABS Sulzer	03/27/18		If the Sulzer does not require these components, they will be removed from the specifications.	S. Romano	04/18/18	Yes
097	S-0.1	Note 12 under "Slabs on Grade" requires termite treatment under all slabs. Advise which structures actually require termite treatment.	M. Glynn	03/28/18		Termite treatment is only required under Metal Buildings.	R. Archer	04/11/18	Yes
98a	C-16	Littoral shelf is shown around ponds B-02 and B-03. Confirm this is not required around pond B-01.	M. Glynn	03/28/18		Confirmed.	A. Miele	03/28/18	Yes
098b	C-9, C-13	The City of North Port would prefer Air Diffusers rather than the Fountains shown on drawings C-9 and C-13.	A. Miele	03/28/18		Provide Air Diffusers instead of Fountains.	A. Miele	03/28/18	Yes

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Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
098c	E-3, E-10	There is no breaker or conduit shown on the electrical drawings for the Fountain at Pond B-03.	M. Glynn	03/28/18		Add 50A breaker to MCC-3 as well as conduit, wire, and pull box for the fountain at pond B-03. Conduit, wire, pull box, and breaker should match those shown for pond B-01.	D. Donaldson	03/28/18	Yes
099	H-8	DCU-1, CU-5, CU-6, and CU-7 are shown in the general area where the sidewalk is to be constructed on C-5. Is it the intent that these units will be placed on the far side of the sidewalk with refrigerant piping routed underground to the building? Can these units or the sidewalk be relocated?	R. Archer	03/28/18		Move HVAC units beyond the sidewalk.	KH	03/28/18	Yes
100	H-8	Hex Note 4 - The referenced location and installation information is not included in the architectural drawings	R. Archer	03/28/18		Building Sub to coordinate.	KH	03/28/18	Yes
101	P-3	The location of the backflow preventer and water supply into the building does not match sheet C-4A.	R. Archer	03/28/18		P dwgs to be revised to match C4A.	S. Bailey	03/28/18	Yes
102	P-4	Sanitary drain plans do not match sheet C-4A	R. Archer	03/28/18		P dwgs to be revised to match C4A.	S. Bailey	03/28/18	Yes
103	P-3	Is there any requirement for water lines to be routed to the refrigerator locations in either the break room or the lab?	R. Archer	03/28/18		Water lines will be routed to the refrigerators in the kitchen and lab.	S. Bailey	03/28/18	Yes
104	P-3	Please add the Fire Sprinkler Riser Diagram to the plumbing drawings	R. Archer	03/28/18		Fire sprinkler design is by others (Metal Building Subcontractor). No drawing changes are being provided here.	S. Bailey	03/28/18	Yes
105	M-1.X Spec 11204	Confirm that the mechanical screen should be a Flexible Step Screen (SSF) per the revised specifications, and not a Vertical Step Screen (SSV) per the drawings. Also, confirm that no sluice is required and that spec section 11204 – Sluiceway (U-Trough) should be deleted.	M. Glynn	03/28/18		Yes it is the SSF model. No sluice is required	S. Romano	03/28/18	Yes
106	Spec 11200, 11203	Advise if spare parts for the step screen and WAP unit that were added in the 100% spec can be deleted.	M. Glynn	04/04/18		Confirmed. Spare parts added in 100% specs can be deleted.	S. Romano	04/04/18	Yes
107	Spec 11201	Confirm that the acrylic flowmeter specified in section 11201-2.03.C.1 does not need to meet the requirements of section 13310-2.03.C. Hydro intends to furnish a visual rotameter.	M. Glynn	04/04/18		The visual flowmeter is acceptable. It does not need to meet requirements of section 13310.	S. Romano	04/04/18	Yes
108	Civil Drawings	The berm that Garney included in GMP1 between pond B-01 and the road will be deleted. In it's place, the space between the pond and the road will be enlarged without a berm to accommodate a new wall and landscaping. Garney needs the layout of the pond by to ensure it gets excavated in the right location. Also provide details/specifications for the wall.	M. Glynn	04/04/18		Brad Soule provided a wall detail on 4/11/18. The sitework subcontractor needs a CAD file of the new pond layout. KH provided the CAD file.	A. Miele	04/26/18	Yes
109	S-0.1	Slabs on Grade Note #10 requires visqueen under slabs. Is this typical for all concrete slabs on the project? If not, which structures require visqueen barriers?	J. Kerr	04/04/18		None of the structures shown on the structural drawings require a vapor barrier under the slabs.	M. Kender	04/11/18	Yes

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
110	S-0.1	Slabs on Grade Note #15 requires crack control joints every 20'. Is this required for all slabs? If not, which structures require it?	J. Kerr	04/04/18		Slab control joint spacing limits can be as follows: 6" and 8" thick equipment pads (Sheet S-20.2): 15' on-center max. 12" thick equipment pads (Sheet S-20.2): 20' on-center max. Hydraulic structures (Chlorine Contact Tank, Headworks, MLE/Digester, Filters): 30' on-center max. The aspect ratio of the control joints should be a maximum of 1.5:1, but a ratio of 1:1 is preferred. A maximum spacing of 30' on-center should also apply to the vertical wall control joints of the hydraulic structures.	M. Kender	04/11/18	Yes
111	M-Drawings	Confirm that concrete pipe encasements are only required at the locations listed below (i.e. where shown on drawings). - Headworks: 30" Effluent - MLE Tanks: 16" Influent, 8" Drains - Digesters: 4" TWAS - Clarifiers: 16" Influent, 12" RAS - RAS/WAS WW: 12" Influent, 16" Effluent - Reject Tank: 18" Influent, 12" Effluent, 6" Pump Out	J. Kerr	04/04/18		All pipes under hydraulic structures as well as at Solids Building need to be encased.	S. Romano	04/04/18	Yes
112	Spec 03110	Table 3.1-5.d calls for a "Class A" form tolerance on most concrete surfaces. This is an expensive architectural finish and was not included with GMP1. Advise if form tolerance can be changed to a "Class C" finish.	M. Glynn	04/04/18		Table 3.1-5.d indicates that a Class A form tolerance shall be used on all surfaces that are to receive a smooth rubbed finish. I am not aware of any of the structures in our plans that require a smooth rubbed finish. If a cementitious coating will be applied to the concrete surface, it will need a Class B form tolerance. Otherwise, a Class C form tolerance is acceptable.	M. Kender	04/11/18	Yes
113	Spec 03110	Table 3.1-5.e appears to require "Very Flat" finished floor tolerances. This is not common for treatment plant contstruction and was not included with GMP1. Advise if floor tolerances can be changed to "Bullfloated" for hydraulic structures and "Straightedged" for non-hydraulic structures.	M. Glynn	04/04/18		It is acceptable to use Bullfloated floor tolerance for hydraulic structures and Straightedged floor tolerance for non-hydraulic structures.	M. Kender	04/11/18	Yes

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Garney

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Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
114	S-Drawings	Advise if the keyway shown on structural drawings between the base slab and walls can be deleted. The upturned keyway can shear leaving no water barrier between the base of the wall and slab below, allowing the structure to leak.	M. Glynn	04/04/18		Delete the upturned shear key at the base of the structure walls between the slab and the wall. Extend the wall construction joint to 2-inches above the top of the slab and roughen the surface to ¼" full amplitude. The waterstop shall be placed in the middle of the wall. See the attached sketch.	M. Kender	04/11/18	Yes
115	Spec 03300	Advise if hydraulic structure mix design can be modified by adding HRWR Admixture or reducing strength from 5,000 psi to 4,000 psi. There is some concern that the specified mix design will result in too many shrinkage cracks.	M. Glynn	04/04/18		Hydraulic structure concrete mix design can be modified by adding HRWR (Superplasticizer) admixture meeting the requirements of the specifications. Reducing the strength from 5,000 psi to 4,000 psi is not allowed.	M. Kender	04/11/18	Yes
116	M-1.1	Provide details for the bypass channel manual bar screen.	S. Smith	04/04/18		S. Romano emailed detail for the manual bar screen.	S. Romano	04/04/18	Yes
117	E-3, E-10	Only one breaker/pullbox is shown for fountains at pond B-01. Drawing C-9 shows a second fountain at pond B-03. Confirm that electrical service is required at second fountain.	M. Glynn	04/04/18		Addressed in Addendum #4.	D. Donaldson	04/06/18	ADD #4
118	M-15.1	Advise if the the JWC "Monstertrack" controls system is required for the Septage Receiving Station.	M. Glynn	04/04/18		The Monstertrack system is not required.	S. Romano	04/04/18	Yes
119	E-15, I-12	Confirm that the JWC control diagram is consistent with latest electrical/I&C drawings. Note that the drawing E-15 shows communication cables between the SRS Control Panel and PCP-1, but drawing I-12 shows this as a stand-alone unit with no communications to PCP-1.	M. Glynn	04/04/18		Addressed in Addendum #4.	D. Donaldson	04/06/18	ADD #4
120	M-15.1	Review proposed scope from JWC for the Septage Receiving Station and confirm that system matches design intent. Do we need to add/delete any components?	M. Glynn	04/04/18		We reviewed the equipment and the only difference we see is that the discharge chute needs to be extended by 500mm. They can extend in 500 mm increments and we spoke with the JWC rep, Matt Curls, about this addition so he should be familiar with what we need.	S. Romano	04/04/18	Yes
121	M-15.1	Confirm that the Plant Water Pumps are sized correctly for the SRS spray system (46 gpm @ 40 psi).	M. Glynn	04/04/18		The plant water pumps are sized to handle the SRS spray system. Delivery pressure will be closer to 60-65 psi, so if the unit requires a pressure reducer they will need to provide it.	S. Romano	04/04/18	Yes

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Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
122	Spec 09900	Please confirm that the only internal concrete coatings that are required are the Headworks, top 4' at the Aeration Basins, Clarifier Launder Troughs, and the complete interiors at the CCC, Digester Tank, and Mudwell. No interior concrete coatings are required at the Scum Pump Station or the Filters except for the Mudwell.	R. Archer	4/9/2018		Coat the scum pump station. Otherwise the coating schedule is correct.	S. Romano	04/10/18	Yes
123	Spec 09900	On the submerged concrete System 9 calls for a block Filler for the first coat. This should be an Epoxy Modified Cementitious Mortar. The Block Filler will work on the interior concrete walls, but is not recommended	R. Archer	4/9/2018		The Epoxy Modified Cementitious Mortar is approved	S. Romano	04/10/18	Yes
124	Spec 09900	Will Sherwin Williams products be allowed? Since Porter and Glidden were bought out by other major competitiors most of the products listed are discontinued and no longer available	R. Archer	4/9/2018		Sherwin Williams is approved as an equal.	S. Romano	04/10/18	Yes
125	Spec 13320	Addendum 2 deleted spec section 13320, 2.02 HMI Subsystem and replaced it with 2.02 HMI Hardware. The replacement 2.02 HMI Hardware specs omits the control system server rack and UPS. Is this no longer required?	M. Glynn	4/10/2018	Email from I&C Sub	The server rack is required and shall be supplied by the Division 13 System Supplier per Specification Section 13320, 1.03, C, 1 and Sheet I-16. Refer to Addendum 6 for additional requirements. The rack will be powered from the Operations Building UPS furnished by Division 16 Supplier, therefore UPS in the rack are no longer required.	S. Bailey	04/12/18	Yes
126	I-15, I-16	The replacement HMI hardware specs doesn't state the number of servers required, should we be following the configuration depicted on drawing I-15 and I-16?	M. Glynn	4/10/2018	Email from I&C Sub	Two (2) Control System Servers shall be provided and configured for redundancy per Specification Section 13320, 2.03, B and 1.03, C, 1, g/h and Sheets I-15 and I-16. A separate Historian Server shall be provided per Specification Section 13320 1.03, C, 1, I and 2.03, C and Sheets I-15 and I-16.	S. Bailey	04/12/18	Yes
127	Spec 13320	Please confirm the 8 floating licenses referenced in addendum 2, 13320, 1.03, C, is intended for use with the panel mounted workstations in PCP-1 & PCP-2 and the remotely located workstation at the N Port WWTP.	M. Glynn	4/10/2018	Email from I&C Sub	Per Specification Section 13320, 1.03, C, 2, 4 through 8, the 8 floating licenses are in addition to those furnished for the two Control Room Workstations, workstation remotely located at the North Port WWTP, two PCP Panel Workstations and laptop workstation. Refer to Specification Section 13320, 2.03, D for additional requirements.	S. Bailey	04/12/18	Yes
128	Spec 13320	Please confirm we are furnishing the workstation remotely located at the N Port WWTP as it doesn't appear to be indicated in the drawings.	M. Glynn	4/10/2018	Email from I&C Sub	Confirmed. Refer to Specification Section 13320, 1.03, C, 4 and 2.02, A and 2.03, D.	S. Bailey	04/12/18	Yes

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
129	Spec 13320	Please confirm the I&C supplier is furnishing the surveillance workstation referenced in 13320, 1.03, C.	M. Glynn	4/10/2018	Email from I&C Sub	Specifications require the surveillance system workstation to be furnished by the Division 13 System Supplier with surveillance system software installation and start up by the Surveillance System Supplier. This will ensure that the same hardware will be furnished as for the SCADA workstations. Refer to Specification Sections 13320, 1.03, C, 2 and 16800, 2.03, B.	S. Bailey	04/12/18	Yes
130	Spec 13320	Addendum 2, spec section 13320, subsection 2.03, B7, references the E+H FieldCare software. The local distributor has advised this software doesn't integrate with the Wonderware HMI and requires Ethernet connections to all the E+H field devices in order to communicate and gather data. The field instrument specifications indicates analog 4-20mA outputs to a PLC. Please advise if this E+H FieldCare software is still required.	M. Glynn	4/10/2018	Email from I&C Sub	Yes, the referenced software is required and is a standalone package running on the servers and accessible by the workstation operators independently from the Wonderware package.	S. Bailey	04/12/18	Yes
131	Spec 13320	It's my understanding that the existing version of Wonderware at N Port is version 2014R2, unfortunately the floating licenses aren't compatible with the existing system. Please advise.	M. Glynn	4/10/2018	Email from I&C Sub	Refer to Addendum #6 revised specifications.	S. Bailey	04/12/18	Yes
132	M-7.1, M-7.3	Provide sketch for plant water pumps and associated piping that are changing from vertical turbine to self-priming end suction.	M. Glynn	4/10/2018		Revised sketch issued in Addendum #6.	S. Romano	04/11/18	Yes
133	E-10, E-40	Provide revised electrical requiremtns for new plant water pumps referenced in question 131.	M. Glynn	4/10/2018		Pumps increased from 7.5 to 15 HP. Reference Addendum #6 for electrical changes	S. Bailey	04/13/18	Yes
134	M-Drawings	Confirm that all metal stairs and walkways should be aluminum.	M. Glynn	4/11/2018		Confirmed	S. Romano	04/11/18	Yes
135	C-Drawings	There are discrepancies between the FDOT temporary access permit drawings and the contract drawings. Please advise which drawings should be followed.	M. Glynn	4/13/2018		The temporary drive location is offset from the permanent driveway location to avoid the existing power pole. We did not want moving the power pole to delay being able to install the temporary drive to allow access to the site while things like moving the power pole were being scheduled.	P. VanBuskirk	04/13/18	Yes
136	C-22	Confirm that casing pipe is not required for the directional drill under US41.	M. Glynn	4/13/2018	Email from Sitework Sub	Confirmed	M. Kender	04/18/18	Yes

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Garney CONTRACTING
ADVANCING WATER

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100% DESIGN CLARIFICATIONS

Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
137	Spec 15100	The Filter control valves were priced as cast iron body and disc by De Nora. Spec section 15100 (added with 100% design docs) requires ductile iron body and disc This results in a price increase. Confirm that valves can be cast iron.	M. Glynn	4/13/2018	De Nora	The filter spec (11600) will take precedence over the valve spec. Cast iron for the control valves is acceptable.	M. Kender	04/17/18	Yes
138	Spec 15100	The Filter check valves were priced as cast iron swing checks with bronze trim by De Nora. Spec section 15100 (added with 100% design docs) requires ductile iron body check valves with SS trim. This results in a price increase. Confirm that the Filter check valves can be cast iron swing checks with bronze trim.	M. Glynn	4/13/2018	De Nora	The filter spec (11600) will take precedence over the valve spec. Cast iron for the check valves is acceptable.	M. Kender	04/17/18	Yes
139	Spec 11600	The isolation valves for backwash and mudwell pumps were priced as BFV's by De Nora. Kimley-Horn requested that these valves be changed to gate valves, which results in a price increase. Advise if valves can be changed back to BFV's.	M. Glynn	4/13/2018	De Nora	The backwash and mudwell pump isolation valves were confirmed as gate valves on 3/15. Provide gate valves per City's direction.	M. Kender	04/18/18	Yes
140	Spec 11600	The Filter drain valves were priced as eccentric plug valves by De Nora. Kimley-Horn requested that these valves be changed to gate valves, which results in a price increase. Advise if valves can be changed back to plug valves.	M. Glynn	4/13/2018	De Nora	Drain valves were confirmed as isolations valves on 3/15. Provide gate valves per City's direction.	M. Kender	04/18/18	Yes
141	Spec 15050	Confirm it is acceptable to provide standard 316 SS hex head bolts/nuts for submerged applications in lieu of 316 SS B8M as specified in sections 15050-A.1.07, B.1.07, D.1.07, E.1.07, F.1.07, and 15110-2.08.E.	M. Glynn	4/13/2018		Confirmed	M. Kender	04/17/18	Yes
142	Spec 15050	Confirm it is acceptable to provide 304L SS pipe in lieu of 316L SS pipe as specified in section 15050-D.	M. Glynn	4/13/2018		316 SS is preferred to 304 SS. 304 SS can be used for process air lines.	S. Romano	04/18/18	Yes
143	Spec 15110	Confirm that the requirement for valve position indicators on buried valves specified in section 15110-2.05.C can be deleted.	M. Glynn	4/13/2018		The valve position indicator is not required and the information shall be represented by a brass identification disk as required in the City's standard detail on sheet C-24.	M. Kender	04/17/18	Yes
144	Spec 15110	Confirm that it is acceptable to provide carbon steel extension stems fabricated from SCH40 pipe in lieu of type 316 SS solid core extension stems as specified in section 15110-2.05.A. Reference attached sketch for fabrication details.	M. Glynn	4/13/2018		Confirmed	M. Kender	04/17/18	Yes
145	Spec 15110	Confirm it is acceptable to use standard 2" combination air/vacuum relief valves called out on section E of sheet M-7.3 in lieu of the ARV's specified in section 15110-2.07.B.	M. Glynn	4/13/2018		It depends on the application. Both are fine by KH. Ashley indicated that we should work on coordinating with the City instead of with KH.	A. Miele	04/18/18	Yes
146	Spec 15060	Confirm it is acceptable to use the elastomer bellows expansion joints in section 15060-2.02.B in lieu of the expansion joints in section 15060-2.04.A.	M. Glynn	4/13/2018		Move forward with expansion joints as indicated and include the more expensive in the pricing if unclear. Include as VE idea for the City	A. Miele	04/18/18	Yes

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Item #	Drawing / Spec Reference	Comment	Comment by:	Date Sent	Notes	Response	Response By	Response Date	Resolved (Yes/No)
147	Spec 15110	Spec section 15110-2.10 is written around two different check valve types. Back flushing is not available on a lever and weight check. Please clarify exactly which model check valve is required.	M. Glynn	4/13/2018		Provide lever and weight check valves.	S. Romano	04/18/18	Yes
148	Div. 15	Please confirm red rubber gaskets are acceptable for all pipe systems except air and sodium hypochlorite which shall be EPDM.	M. Glynn	4/13/2018		Confirmed	M. Kender	04/17/18	Yes
149	S-20.3	Please confirm it is acceptable to provide aluminum embed angle in lieu of the 316SS angle per detail 14/S-20.3	M. Glynn	4/13/2018		Aluminum will be acceptable.	M. Kender	04/18/18	Yes
150	A-Drawings	The metal building manufacturers will not design anchor bolts or building slabs. They will provide reaction loads and recommended anchor diameter. Confirm that the architect will revise design for building slabs and anchor bolts after receiving shop drawings and reaction loads for the metal buildings.	M. Glynn	4/13/2018	Metal Building Sub	Architecture Studio will review the metal building shop drawings and load calculations from the PEMB manufacturer and will design the anchor bolts, slab and footings to accommodate the loading.	Architect	04/20/18	Yes
151	A-Drawings	Advise if insulation in the Office/Control Building should be R-30 or R-38, which is required on similar buildings in other jurisdictions.	M. Glynn	4/13/2018	Metal Building Sub	Insulation will be per the architectural drawings.	Architect	04/20/18	Yes
152	Spec 03300	It is acceptable to chemical cure concrete slabs.	S. Reuter	4/26/2018		Yes, curing materials shall be in accordance with the specifications and applied per the manufacturer's requirements.	S. Schmid	04/26/18	Yes
153	Spec 03300	It is acceptable to Chemical membrane cure concrete walls where applicable and water cure if specialty coatings need to be applied.	S. Reuter	4/26/2018		Yes, curing materials shall be in accordance with the specifications and applied per the manufacturer's requirements.	S. Schmid	04/26/18	Yes
154	Spec 03300	Slump can be 4" +/- 1" without the addition of Super P.	S. Reuter	4/26/2018		Yes	S. Schmid	04/26/18	Yes
155	Spec 03300	Concrete Contractors can begin stripping wall forms when concrete has reached sufficient strength, typically within 24 hours. (Not 3-5 days)	S. Reuter	4/26/2018		Yes, but not less than 24 hours. Provisions must be made to continue curing wall concrete after stripping the forms.	S. Schmid	04/26/18	Yes
156	Spec 03300	Wall Concrete will be formed in many places using gang forms (Large panels). These forms will be secured through the use of taper ties and not snap ties with cones. Holes will be plugged and patched.	S. Reuter	4/26/2018		Taper ties are acceptable. The large end of the taper tie should be on the liquid side of the wall. The tie holes shall be filled to prevent leaking. Please submit materials and method of filling tie holes prior to construction.	S. Schmid	04/26/18	Yes
157	Spec 03300	All exposed exterior concrete is currently a Class C finish per Q/A #112. Please provide any locations you would like to add a smooth-rub finish or alternately a burlap (grout film or thoroseal type finish).	S. Reuter	4/26/2018		The Class C reference from Q/A #112 was for form tolerance. A smooth form finish or smooth-rub finish is acceptable for exposed exterior concrete. Provide a broom finish on exterior concrete walking surfaces.	S. Schmid	04/26/18	Yes

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A1.1	Double Doors on North Wall (D3) does not match with the Door Schedule. Should be a D4 according to Door Schedule?	B Archer	01/15/18	20180115.001		Will be fixed on 100% design.	KH	03/14/18	No
C10	Match Line call out at the bottom of page should be C-12	S Smith	01/15/18	20180115.002		Will be fixed on 100% design.	KH	03/14/18	No
09900 Coatings	Coatings & Paint, where required and material?	S Smith	01/15/18	20180115.003		KH will review coatings with City for GMP-1 structures.	KH	01/25/18	No
M1.1	Please confirm that a maximum support spacing of 5'-0" for PVC lines is acceptable.	M. Wadowick	01/15/18	20180115.004		Confirmed	KH	01/25/18	Yes
M1.1	shown overall dimensions are wrong. Left side of the building has a length of 44'7", The length of almost the same on the right side says 63'11". The 44'7" seems to match the scale, so I assume that one is right.	J Kerr	01/15/18	20180115.005		Will be fixed in 100% design.	KH	03/14/18	No
M1.1, M1.3, M1.4	Odor Control Piping branches are called out to be HDPE. Please conform that all Odor Control piping is to be FRP. (Assuming FRP)	M. Wadowick	01/15/18	20180115.006		FRP is correct	KH	01/25/18	Yes
M1.2	shown overall dimensions are wrong. The right side of the building has 2 major lengths (20'10" and 13'9") that add up to a length of 42.58'. The Length of almost the same on the left side has 66'11". The scale is right for the 2 shorter lengths so I assume the 66' is wrong.	J Kerr	01/15/18	20180115.007		Will be fixed in 100% design.	KH	03/14/18	No
M1.2	(1.2) Effluent Piping to MLE shown as 18" vs. 30" on M-1.1, M-1.3 (1.1C), M-1.4 (1.1E)	B Archer	01/15/18	20180115.008		30" is correct	KH	01/25/18	Yes
M1.3	6" Channel drain in 1.2A should be slurry cup drain?	B Archer	01/15/18	20180115.009		Will be fixed in 100% design.	KH	03/14/18	No
M1.4	(1.1F) 18" Outlet to MLE Basin shown going to 30" Effluent Piping. Should this be 30" Outlet?	B Archer	01/15/18	20180115.010		30" is correct	KH	01/25/18	Yes
C12	Drawing C12 shows storm drain structure #1-2A as an FDOT Type C Inlet, which has interior dimensions of 24" x 36". The 36" RCP inlet/outlet pipes will not fit a box this size.	M Glynn	01/16/18	20180116.001		Will be fixed in 100% design.	KH	03/14/18	No
C22	Drawing C22 shows the Influent Force Main as 24" Drawing C4 and the mechanical drawings show this same line as 12" Confirm the Influent FM should be 12" diameter.	M Glynn	01/16/18	20180116.002		The Influent FM should be 16" The Influent FM will transition from 12" to 24" at the plant gate, and then reduce to 16" at the Flow Meter	KH	03/14/18	Yes
C22	Installing 18" Effluent after Reuse Meter to first 45 bend across road.	S Smith	01/16/18	20180116.003		Extend 18" plant re-use effluent to the fence line and cap.	KH	01/25/18	Yes
C22	Does the water going to the well or reject tank need to be metered?	S Smith	01/16/18	20180116.004		The DIW has a meter per M-8.2. The reject tank does not need to be metered.	KH	01/25/18	Yes
C22	Note 14 on sheet C-22 references sheet C-5A, please provide.	J. Smith	01/16/18	20180116.005		This is a misprint. Note 15 should reference the joint restraint table on drawing C-23.	KH	03/14/18	No

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C23	Please add 90 degree vertical bends to the restrained joint table.	J. Smith	01/16/18	20180116.006		For vertical 90's, follow joint restraint requirements for horizontal 90's.	KH	03/14/18	Yes
C24	Figure 213 and 215, note 4 states that no valves shall be more than 4' deep unless approved by N.P. utilities. There is a 24" plug valve on the ML line to the MLE basins that is more than 4' deep. Please confirm this is approved	J. Smith	01/16/18	20180116.007		Valves deeper than 4' are acceptable.	KH	01/25/18	Yes
C3, C4, C10	The 12" storm drain line between structures 2-1A and 2-1B (INV 1.5'±) conflicts with the 8" SS line that crosses over it (INV 1.9±).	M Glynn	01/16/18	20180116.008		Garney to revise storm inverts and send to KH for approval (sent 1/26).	KH	01/25/18	No
C5	The 24" FE line between the filters and the chlorine contact depicts (2) 24" vertical 90 bends. Based on the scaled inverts on sheets M-6.3 and M-7.3 it doesn't appear a change in elevation will be required. Please provide the invert elevations of all fittings on this line.	J. Smith	01/16/18	20180116.009		Delete 24" FLG 90	KH	01/25/18	Yes
C9 - C13	Some of the invert elevations for Flared End Sections shown on drawing C9 through C13 do not match up with the pond grades. The RCP piping may need to be extended further into the ponds for the grades to match up. It would be helpful if the contours for 2:1 slopes at ponds were illustrated on drawings C9 through C13.	M Glynn	01/16/18	20180116.010		Garney to send revised lengths of RCP to KH for approval (sent 1/26).	KH	01/25/18	No
E Drawings	Ground loops are only shown at the following structures: Headworks, MLE Tanks, Digesters, Filters, Blower/Elec Bldg. #1, Chem/Elec Bldg. #2, Control Bldg, and Solids Bldg. Confirm ground loops are not required at other structures.	M Glynn	01/16/18	20180116.011		Provide ground loops as shown on drawings. Note that electrical details require all motors to be grounded to ground loops or similar ground grid.	D. Donaldson	01/25/18	Yes
E35	AHU-7 is shown on Dwg E-35, but not shown on the Panel PP1 Diagram (Dwg E-8). Please provide more information, if this unit is required.	D. Odom	01/16/18	20180116.012		Dean this goes to the lighting panel	S. Smith	01/23/18	Yes
E54	Detail 7/E-54 shows a typical equipment rack. Advise where this equipment rack will be required. Note that other racks are shown on drawings E-51 and E-53.	M Glynn	01/16/18	20180116.013		This was revised in Addendum #1.	D. Donaldson	03/14/18	Yes
M1.2	The effluent to the MLE basins is called out to be 18". Please confirm this shall be 30".	J. Smith	01/16/18	20180116.014		30" is correct	KH	01/25/18	Yes
M17.1	No elevations are shown for the Site Lift Station. Provide missing data for the elevation table located at the top right-hand corner of drawing M-17.1.	M Glynn	01/16/18	20180116.015		Will be provided in 100% design.	KH	03/14/18	No

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M2.3	Section 2.1A depicts the 18" ML to the clarifier splitter box to be 14' deep. The hydraulic profile shows this same line to be roughly 8' deep. Please provide the invert of the 18" ML.	J. Smith	01/16/18	20180116.016		Will be provided in 100% design.	KH	03/14/18	No
11503 Dry Pit Submersibles	11503 calls for submersible non-clog pumps for the IR pump station and a horizontal centrifigul pump is shown on M-2.5	B Archer	01/16/18	20180116.017		Pumps will be vertical dry pit pumps.	S. Romano	02/07/18	Yes
M4.1	Please confirm the clarifiers are 65' ID.	S Smith	01/16/18	20180116.018		Clarifier ID shown on drawing M4.4	KH	01/25/18	Yes
M4.4	Please provide the centerline elevations of the 16" clarifier influent and the 12" RAS.	J. Smith	01/16/18	20180116.019		Will be provided in 100% design.	KH	03/14/18	No
M6.1, M6.2, M6.3	The concrete foundation for the filters does not extend past the outside wall of Filter 2. Part of Filter 2 is shown cantilever over the end of the foundation.	B Archer	01/16/18	20180116.020		Will be fixed in 100% design.	KH	03/14/18	No
n/a	No geotechnical report or soil borings have been provided. If any geotech. information exists, please make it available.	M Glynn	01/16/18	20180116.021		Draft Geotech Report sent on 1/22	KH	01/22/18	Yes
C Drawing	Please add the buried valve symbols to the contract drawings.	J. Smith	01/16/18	20180116.022		Valve types, sizes, and restraints are shown on the Valve Schedule on drawing C-3.	KH	03/14/18	Yes
16370 VFD's	Allen-Bradley VFD's should be type Powerflex 750 Series	SJR	01/17/18	20180117.001		Allen-Bradley Powerflex 750 VFD is acceptable.	S. Bailey	01/25/18	Yes
11551 PD Blowers	PD Blower spec requires 6 Pulse VFD's in Control Panel - Electrical requires 18 Pulse in Electrical Room (Compare HP to Equipment)	SJR	01/17/18	20180117.003		PD Blower VFD's are provided with electrical gear per Div 16. BEC will review the harmonic mitigation when gear is submitted.	S. Bailey	03/14/18	Yes
E39	Compare HP for Filter Backwash blowers Mech is 150, Electric is 175 and waiting on Equipment hp	SJR	01/17/18	20180117.004		Filter Bacwash Blowers need to be 200 Hp. Gear is already sized to handle 200 Hp.	S. Bailey	01/25/18	Yes
11502 Mixers	VFD's are integral to Anoxic Mixers	SJR	01/17/18	20180117.005		Separate VFD's associated with mixers will be removed.	S. Bailey	01/25/18	Yes
E23	Aeration Blowers are 100 HP not 175	SJR	01/17/18	20180117.006		Aeration Blowers are 100 Hp	S. Bailey	01/25/18	Yes
E25	E-25 identifies 4 Electrical Gates being powerwed from MCC1 and MCC2, however there are 6 gates that are shown to be electric. Gate 105 should be LP1275. Look at VE	SJR	01/17/18	20180117.007		All gates are manual. Leave spare buckets in gear. Drawings will be revised.	KH	01/25/18	Yes
M1.2	Move washer Compactor to top - Previously sent drawing	SJR	01/17/18	20180117.008		Leave washer, compactor, and trough as shown. KH needs to review with the City before any changes can be made.	KH	01/25/18	Yes
M1 Series, E25	Eliminate Second screen and I&C from Mech and E/I drawings	SJR	01/17/18	20180117.009		Eliminate second screen and associated I&C. Drawings will be revised to show future screen.	KH	01/25/18	Yes
E27	Fix note at top of E-29 to read See Sheet E-27	SJR	01/17/18	20180117.010		Was fixed in addendum #1	S. Bailey	03/14/18	Yes
E29	E-29, Fix call out for LP8318 to read show power from MCC1 in lie of MCC2	SJR	01/17/18	20180117.011		Was fixed in addendum #1	S. Bailey	03/14/18	Yes

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E10, E39	Filter Submersible Pumps are 25 HP on E10 and 15 HP on E39	SJR	01/17/18	20180117.012		Was fixed in addendum #1	S. Bailey	03/14/18	Yes
E40	Call out for Pumps on E-40 should read to VFD	SJR	01/17/18	20180117.013		Was fixed in addendum #1	S. Bailey	03/14/18	Yes
E40, M7.3	Some instruments shown on E-40 are not shown on M-7.3 such as Flowmeter, PIT, and PE	SJR	01/17/18	20180117.014		KH to update mechanical drawings to include instruments. Flow meter to be moved above grade.	KH	01/25/18	No
E42	"SV"s are called out for Scum Pump Station on E-42 but are not represented on M-4.6. Are these needed?	SJR	01/17/18	20180117.015		No solenoid valves or MOV's are needed at the Scum Pump Station.	KH	01/25/18	Yes
E10, E44	MPZ to PC4 on E44 is wired to MCC4 however on E10, MCC3 on E10 feeds power	SJR	01/17/18	20180117.016		Was fixed in addendum #1	S. Bailey	03/14/18	Yes
E10	E10 indicates the centrifuge supplier will prewire everything in room E44 including Polymer skids, however the equipment is also spreadout. Mostlikel requires electrical SC to perform wiring	SJR	01/17/18	20180117.017		Centrifuge skid will be prewired and includes polymer pumps. No need for conduit & wire to various pieces of equipment.	S. Bailey	01/25/18	Yes
E52	detail 2 on E-52 calles out for 120 v sump pumps in MH's wired to LP. Need to show circuits for this and consider deleting this requirements		01/17/18	20180117.018		Circuits for sump pumps will be provided in Addendum #2.	S. Bailey	03/14/18	No
M4.4, M4.6	Scum piping is called out to be 4" on drawing M-4.4 and 6" on M-4.6. Please confirm that it is to be 6".	M. Wadowick	01/17/18	20180117.019		All scum piping can be 4".	KH	03/14/18	Yes
M4.2, M4.3	Please provide specifications for the spray nozzles at the clarifier scum troughs.	M. Wadowick	01/17/18	20180117.020		Provide Ovivo standard spray system	KH	03/14/18	Yes
11204 Sluiceway	Delete Sluiceway (U-Trough)	TMB (Moss Kelley)	01/18/18	20180118.001		Leave washer, compactor, and trough as shown. KH needs to review with the City before any changes can be made.	KH	01/25/18	Yes
E5, E6, E11, E20, E22, E23	Please provide Fan RPM's, Air Flow CFM, and Fan Motor RPM's for the Exhaust Fans 1 thru 5	D. Odom	01/18/18	20180118.002		HVAC info will be provided in Addendum #2	S. Bailey	03/14/18	No
E5, E6, E11, E20, E22, E23	Please provide Air Flow CFM, Cooling Data and Heating Data for the AHU/ACCU-1 & 2	D. Odom	01/18/18	20180118.003		HVAC info will be provided in Addendum #2	S. Bailey	03/14/18	No
E21	Please provide Fan RPM's, Air Flow CFM, and Fan Motor RPM's for the Exhaust Fan	D. Odom	01/18/18	20180118.004		HVAC info will be provided in Addendum #2	S. Bailey	03/14/18	No
E8, E35, E36	Please provide Air Flow CFM, Cooling Data and Heating Data for the AHU/ACCU-5 thru 7	D. Odom	01/18/18	20180118.005		HVAC info will be provided in Addendum #2	S. Bailey	03/14/18	No
E10, E11, E37, E38	Please provide Air Flow CFM, Cooling Data and Heating Data for the AHU/ACCU-3 & 4	D. Odom	01/18/18	20180118.006		HVAC info will be provided in Addendum #2	S. Bailey	03/14/18	No
M7.2	Please provide specifications for the corporation stop chemical diffuser assembly shown in Section 7.1D	M. Wadowick	01/18/18	20180118.007		Corp. stop has been deleted. Chemical piping will dump directly into tanks	KH	03/14/18	Yes
M14.2	The 6" butterlfy valves at the MLE Blowers are called out to have weld necks. Please confirm that flange connections are acceptable.	M. Wadowick	01/22/18	20180122.001		The weld necks were noted for pipe connections, not for the valve.	KH	03/14/18	Yes

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11800 Gates	Review marked up gate spec per email on 1/16/18	TMB (RW Gate)	01/16/18	em20180116.001	Email received from TSC Jacobs on 01/16/2018	KH will check if the gate specs were updated in 100% design documents.	KH	03/14/18	No
11700 Centrifuge	The Bowl inside diameter in the specs is 26 in but the model number specified for Hiller is 570mm and if my math is correct that calculates to a 22.44 in inside diameter. We are using the smaller diameter for Alpha Laval and Flottweg, please confirm.	TMB	01/16/18	em20180116.002	Email from Tim Behler on 01/16/2018	Hiller's standard bowl diameter for model DP574 is acceptable.	KH	03/14/18	Yes
11500 Aeration	Both the FB Aeration (11500-2.12 and 3.03-B) and CB Aeration (11550-1.02-G, and 1.02-H) specifications require Factory OTE Testing. We've never seen OTE testing for coarse bubble diffusers in this kind of application. In addition, the only test facility in the US, GSEE located in TN, is scheduled to close sometime early this year. By leaving the testing requirement in the fine bubble specifications, Aquarius will not be able to bid.	TMB (TSC Jacobs)	01/16/18	em20180116.003	Email from TSC Jacobs on 01/16/18	Factory testing not required	S. Romano	02/07/18	Yes
11400 Clarifiers	2.06.B specifies ¼" aluminum checked floorplate but drawing M-4.3 & M-4.2 call for 1 ¼" bar grating. Ovivo recommends using checkered floorplate for platforms in warmer climates. Checkered floorplate platforms are easier to maintenance because there aren't slits where fasteners or other small parts may drop in the tank and be lost. Checkered floorplate is also more comfortable to kneel/sit. Checkered floorplate can become slippery during icy conditions. Please clarify which walking surface will be required on the platform surface.	TMB (TSC Jacobs)	01/16/18	em20180116.004	Email from TSC Jacobs on 01/16/19	Grating is required on the platform surface per the drawings.	S. Romano	03/14/18	Yes
11400 Clarifiers	2.15.A and drawings M-4.3 & M-4.2 don't show/specify the spray piping/header diameter size or material type. On drawing M-4.6 the spray header piping material is PVC. Ovivo recommends using at least 1 ½" diameter piping and PVC for the material to match what is being provided for other spray systems in the plant. Please verify what material type and pipe size that is required.	TMB (TSC Jacobs)	01/16/18	em20180116.005	Email from TSC Jacobs on 01/16/20	1-1/2" PVC is acceptable	S. Romano	03/14/18	Yes

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Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
M4.2, M4.3	Drawings show the scum trough rotated far from the walkway which would not be accessible from the walkway. This may have been done on the drawing to clearly show the scum trough. Ovivo wants to be clear on the required location of the scum trough because of the accessibility of the trough spray system. Ovivo recommends have the trough only slightly offset from the walkway so that the spray nozzles and scum trough can be easily be accessible and receive maintenance as required from the walkway. See attached drawing CSW875-156 for example.	TMB (TSC Jacobs)	01/16/18	em20180116.006	Email from TSC Jacobs on 01/16/21	Fixed in 100% design.	KH	03/14/18	No
M4.5	Detail 4.5 and 4.5A show the details for the energy dissipating inlet (EDI) not the feedwell. Ovivo knows what is being portrayed but before 100% drawings are release please change the feedwell references to EDI on these details.	TMB (TSC Jacobs)	01/16/18	em20180116.007	Email from TSC Jacobs on 01/16/22	Fixed in 100% design.	KH	03/14/18	No
M4.5	Detail 4.5 shows the scoops to be HDG Steel which shouldn't be there. Per the clarifier specification all submerged steel is to be painted. Ovivo recommends deleted this before 100% drawings are released.	TMB (TSC Jacobs)	01/16/18	em20180116.008	Email from TSC Jacobs on 01/16/23	Fixed in 100% design.	KH	03/14/18	No
M4.5	Detail 4.5D shows the spiral rake blade to be HDG Steel which shouldn't be there. Per the clarifier specification all submerged steel is to be painted. Ovivo recommends deleted this before 100% drawings are released.	TMB (TSC Jacobs)	01/16/18	em20180116.009	Email from TSC Jacobs on 01/16/24	Fixed in 100% design.	KH	03/14/18	No
11800 Gates	Section 11800 – FABRICATED GATES needs quite a bit of modification if the customer would like the gates to be fabricated stainless steel gates that comply with AWWA C561. The current specification appears to be a mixture of an outdated CH2M Hill gate specification combined with an Ashbrook Coplastix gate specification. In short, no company meets the specification as currently written, especially the company that is named	TMB (TSC Jacobs)	01/16/18	em20180116.010	Email from TSC Jacobs on 01/16/25	Question withdrawn	M. Glynn	03/14/18	Yes
11400 Clarifiers	Clarifier Marked up drawings sent via email to Kimley-Horn on 1/16/18	TMB (TSC Jacobs)	01/16/18	em20180116.012	Email from TSC Jacobs on 01/16/27	Fixed in 100% design.	KH	03/14/18	No

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11203 Mech Fine Screen	The comments address changing the screen from the Step Screen Vertical, which is installed at 75 degrees and included a discharge height that would accommodate a sluice trough, to the Step Screen Flexible, which is designed to have a washer compactor (WAP) located immediately behind the screen, as is shown in the attached photos.	TMB (Moss Kelley)	01/16/18	em20180116.014	Email for Moss Kelley on 01/16/2018	Garney to bid screen and washer as currently shown and provide future deduct to modify to flexible step-screen with washer compactor directly behind screen. KH needs to get approval from City before making this change.	KH	01/25/18	Yes
11200 Screening Washer	Update the washer compactor design from one designed to accept the additional water required by the sluice trough, to a WAP designed to be installed immediately behind the screen	TMB (Moss Kelley)	01/16/18	em20180116.016	Email for Moss Kelley on 01/16/2018	Garney to bid screen and washer as currently shown and provide future deduct to modify to flexible step-screen with washer compactor directly behind screen. KH needs to get approval from City before making this change.	KH	01/25/18	Yes
11204 Sluiceway	3. Section 11204 Sluiceway can be deleted in its entirety.	TMB (Moss Kelley)	01/16/18	em2018[illegible]116.017	Email for Moss Kelley on 01/16/2018	Leave washer, compactor, and trough as shown. KH needs to review with the City before any changes can be made.	KH	01/25/18	Yes
11201 Grit Removal Equip	2.01.K – Spec excludes screw type classifiers. The SpiraSnail dewatering unit shall have a screw auger per specifications described in 11201.2.05.	TMB (Moss Kelley)	01/16/18	em20180116.022	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
11201 Grit Removal Equip	2.03.A.9 – Per drawing sheets M-1.1 and M-1.4, the inlet duct dimensions appear to be 28" W x 52" H. Specs require 26" W x 52" H.	TMB (Moss Kelley)	01/16/18	em20180116.023	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
11201 Grit Removal Equip	2.03.B.2 – The grit concentrator shall have a maximum surface loading rate of 11.8 gpm/SF. Specs require 15.4 gpm/SF.	TMB (Moss Kelley)	01/16/18	em20180116.024	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
11201 Grit Removal Equip	2.03.D.1.d – The HeadCell is shown inside the C1D2 boundary on the drawings and will include a NEMA 7 solenoid valve for the FOG spray system. Specs require NEMA 4X solenoid valve.	TMB (Moss Kelley)	01/16/18	em20180116.025	Email for Moss Kelley on 01/16/2018	A NEMA 7 valve is acceptable.	D. Donaldson	03/14/18	Yes
11201 Grit Removal Equip	2.04.B.3.c – Remove from specifications, Hydro does not offer an organics or total solids guarantee for the Grit Cup and/or SpiraSnail equipment.	TMB (Moss Kelley)	01/16/18	em20180116.026	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.04.C – This specs SlurryCup, will need revision to GritCup specification language.	TMB (Moss Kelley)	01/16/18	em20180116.027	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.04.C.4 – A minimum 24" access shall be required above the Grit Cup for O&M. 18" clearance is required around the Grit Cup/SpiraSnail system.	TMB (Moss Kelley)	01/16/18	em20180116.028	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No

West Villages ...uthwest WRF
90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
11201 Grit Removal Equip	2.04.C.7 & 8 – The Grit Cup unit does not have fluidizing requirements. Fluidizing water connections are N/A for this grit washing equipment.	TMB (Moss Kelley)	01/16/18	em20180116.029	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.4.D – No additional valves or accessories are required for the Grit Cup. This section is N/A for this grit washing equipment.	TMB (Moss Kelley)	01/16/18	em20180116.030	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.05.A.4 - Remove from specifications, Hydro does not offer an organics or total solids guarantee for the Grit Cup and/or SpiraSnail equipment.	TMB (Moss Kelley)	01/16/18	em20180116.031	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.06.A.3.a – No controls shall be provided (none necessary) for the Grit Cup washing unit.	TMB (Moss Kelley)	01/16/18	em20180116.032	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.0.6.A.7 - No controls shall be provided (none necessary) for the Grit Cup washing unit. Reference Moss Kelley email for components included in the proposed control panel.	TMB (Moss Kelley)	01/16/18	em20180116.033	Email for Moss Kelley on 01/16/2018	Acceptable	S. Romano	02/07/18	Yes
11201 Grit Removal Equip	2.07 – The specified operation sequence needs to be revised per Moss Kelley's email.	TMB (Moss Kelley)	01/16/18	em20180116.048	Email for Moss Kelley on 01/16/2018				
11201 Grit Removal Equip	2.8 – Utility requirements shall be: A.1 The Grit Concentrator Unit shall require a minimum supply of 11 gpm clarified non- potable water at a minimum 50 psig. A.2 The Floatables Spray System shall require a minimum supply of 16 gpm clarified non- potable water at a minimum 50 psig.	TMB (Moss Kelley)	01/16/18	em20180116.060	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
Drawings	The HeadCell appears covered in the isometric view, Hydro recommends access hatches for the FOG spray nozzles. See the HeadCell access hatch flyer attached.	TMB (Moss Kelley)	01/16/18	em20180116.066	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
M1.1, M1.2	M-1.1 & M-1.2: The HeadCell tank shall have internal dimensions of 12' x 12' for a 9' diameter HeadCell unit.	TMB (Moss Kelley)	01/16/18	em20180116.067	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
M1.2	M-1.2: Who supplies the 4" magnetic meter shown here? If Hydro supplies this, please provide a specification (make/model/electrical requirements etc.). Current pricing assumes this is provided by others.	TMB (Moss Kelley)	01/16/18	em20180116.068	Email for Moss Kelley on 01/16/2018	Hydro needs to supply the mag meter for the line between the headcell and the grit cup. If Hydro doesn't need it, it can be deleted.	KH	03/14/18	No
M1.2	M-1.2: W3 supply to "SlurryCup" won't be required for the GritCup.	TMB (Moss Kelley)	01/16/18	em20180116.069	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

West Villages uthwest WRF
90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
M1.2, M1.3	M-1.2 & M-1.3: Washing/Dewatering equipment are Grit Cup/SpiraSnail, but are labeled as SlurryCup/GritSnail on drawings. GritCup/SpiraSnail is defined by the specs and should be labeled this way in the drawings.	TMB (Moss Kelley)	01/16/18	em20180116.070	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
M1.3	M-1.3: The 6" DI TEE on the SpiraSnail discharge should be replaced with a wye connection.	TMB (Moss Kelley)	01/16/18	em20180116.071	Email for Moss Kelley on 01/16/2018	Fixed in 100% design.	KH	03/14/18	No
Drawings	E-01: The control panel looks to be for a different set of equipment, see the electrical diagram for the control panel attached. Also, there looks to be a Local Operating Station shown that is not included in the specifications. Please confirm if the LOS should be included in our scope, and if this should be anything more than an E-stop. Price in the pricing summary assumes this is included and is an E-stop only.	TMB (Moss Kelley)	01/16/18	em20180116.072	Email for Moss Kelley on 01/16/2018				
Drawings	E-01: Drawing indicates fiber optic between GCP-3 and PCP-2 which typically requires a PLC. Spec indicates programmable relay not PLC. Programmable relay would have hardwired dry contacts for connection. Please confirm if panel should be Programmable Relay or include an adder for PLC. Current pricing includes a Programmable Relay panel only.	TMB (Moss Kelley)	01/16/18	em20180116.073	Email for Moss Kelley on 01/16/2018				
Drawings	E-22: Remove SV, ZT (Zero speed switch). Not applicable to the equipment being supplied.	TMB (Moss Kelley)	01/16/18	em20180116.074	Email for Moss Kelley on 01/16/2018				
Drawings	I-2: Looks to be SC/GS. Please see the P&ID for the correct set of equipment attached. Also indicates 6" grit slurry line, our data indicates this should be a 4" diameter line to maintain 4-7 ft/s in the grit slurry.	TMB (Moss Kelley)	01/16/18	em20180116.075	Email for Moss Kelley on 01/16/2018	The grit slurry line is 4" as shown on mechanical drawings.	KH	03/14/18	Yes
11600 Filters	It appears that Reject Pumps (sheet M16.1) use this same pipe to return water to the headworks. What is the flow from these pumps and can they be pumping at the same time as the mudwell pumps?	TMB (Denora Filters)	01/17/18	em20180117.056	Email received from Moss Kelly on 01/17/2018	The Reject pumps can operate simultaneously with the Mudwell pumps.	KH	03/14/18	Yes
11600 Filters	What is the max and min water levels in the Headworks. Where is the FBW pipe discharge elevation? They want to know if the discharge is above the max level.	TMB (Denora Filters)	01/17/18	em20180117.057	Email received from Moss Kelly on 01/17/2018	Will be addressed in 100% design.	KH	03/14/18	No

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

West Villages uthwest WRF
90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
11600 Filters	They did not see a line for the mudwell pump discharge to the reject storage tank. It was stated in an answer from Kimley Horn that this may be a destination if the FBW cannot go to the headworks.	TMB (Denora Filters)	01/17/18	em20180117.058	Email received from Moss Kelly on 01/17/2018	The mudwell discharge line does not go to the Reject Tank. The FBW line goes to the Headworks.	KH	03/14/18	Yes
11600 Filters	For the case of FBW going to the reject tank, what is the max/min water level of this tank and the elevation of the FBW entrance to the tank?	TMB (Denora Filters)	01/17/18	em20180117.059	Email received from Moss Kelly on 01/17/2018	Not applicable. See response to question 0117.058.	KH	03/14/18	Yes
11600 Filters	The blower break horsepower at operating conditions is around 147 to 148 hp. Theoretically a 150 hp motor would work. However, at relief pressure of 11.3 (the blower vendors rounded up to 11.5) psi, the break horsepower is near 165 hp. Now a typical 150 hp motor with a 1.15 SF can actually handle 165 hp. However, this is awful close to overload! Plus, some engineers don't like to use the SF on the motor during relief conditions. So to be conservative, I thought a 175 hp motor was the way to go, but then I was told 175 is not readily available, so the blower vendors had to go to 200 hp. If the engineer is OK with the 150 then we can lower it, but this would need to be approved by them in writing. It's really close...	TMB (Denora Filters)	01/17/18	em20180117.060	Email received from Moss Kelly on 01/17/2018	Filter Bacwash Blowers need to be 200 Hp. Gear is already sized to handle 200 Hp.	S. Bailey	01/25/18	Yes
11500 Aeration	- Change DO, ORP, and pH, probes to YSI. This will remove many hard-wired IO signals from the IO list and PID	TMB (Sanitaire)	01/17/18	em20180117.093	Email received from Moss Kelly on 01/17/2018	Question withdrawn	T. Behler	02/07/18	Yes
11500 Aeration	- Future equipment shown on P&IDs are not included. The IO list in Division 13 will need to be edited. This is a suggestion to the end user and consultant to remove future IO.	TMB (Sanitaire)	01/17/18	em20180117.106	Email received from Moss Kelly on 01/17/2018	Question not clear	M. Glynn	03/14/18	Yes
11502 Mixers	2.05_E. Please add "4. Mixer 211, and 212 shall have a single speed standard efficiency motor	TMB (Sanitaire)	01/17/18	em20180117.110	Email received from Moss Kelly on 01/17/2018	Sanitaire to provide requested spec revisions.	KH	03/14/18	No
11500 Aeration	Mixer 2102 and 2202 have the IE4 motor and integrated VFD.	TMB (Sanitaire)	01/17/18	em20180117.111	Email received from Moss Kelly on 01/17/2018	Separate VFD's associated with mixers will be removed.	S. Bailey	01/25/18	Yes
Prestressed Clarifiers	What is the design groundwater/flood elevation? Infromation needed for prestressed tank design.	SGS	01/18/18	em20180118.001	Email from Mort Vineyard on 1/18/2018	100 Year flood elevation is 7.2.	S. Romano	03/14/18	Yes
Prestressed Clarifiers	Will pressure relief valves be allowed or is concrete ballast preferred?	SGS	01/18/18	em20180118.002	Email from Mort Vineyard on 1/18/2018	Tanks should be high enough above the flood zone to avoid the need for PRV's or Ballast.	S. Romano	03/14/18	Yes
Prestressed Clarifiers	What is the required coating system for the clarifiers	SGS	01/18/18	em20180118.003	Email from Mort Vineyard on 1/18/2018	KH will review coatings with City for GMP-1 structures.	KH	01/25/18	No

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90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
Prestressed GST	What is the required coating system for the Reject ground storage tank	SGS	01/18/18	em20180118.004	Email from Mort Vineyard on 1/18/2018	KH will review coatings with City for GMP-1 structures.	KH	01/25/18	No
Prestressed GST	Is there a desired minimum floor thickness? Typical is 4" but some engineers/owners prefer 6"	SGS	01/18/18	em20180118.005	Email from Mort Vineyard on 1/18/2018	The floor thickness should be determined by the prestressed tank designer.	KH	03/14/18	Yes
11601 Vertical Pumps	The specifications states there are two set of pumps, Effluent transfer pumps and plant water pumps. The specification and plans only give details on the effluent transfer pumps, is there data for the plant water pumps that can be supplied?	TMB (Tom Evans)	01/22/18	em20180122.001	Email from Tom Evans on 01/19/18	Plant water pumps may be down-sized from 150 HP as shown on drawing E40 to 15 Hp. KH to review and advise. Spec 11601 will be revised to include Plant Water Pumps.	KH	01/25/18	No
DIW	Will the client be able to support us in 24/7 operations? (we typically work 24/7 in these type of projects)	SGS (Layne)	01/22/18	em20180122.004	Email from Layne on 01/22/2018	Yes	KH	01/27/18	Yes
DIW	Who will be the engineering firm?	SGS (Layne)	01/22/18	em20180122.005	Email from Layne on 01/22/2018	Kimley-Horn with subconsultant ASRus	KH	01/27/18	Yes
DIW	Is there more detail in regards to the injection test (flow rates, time, requirements)?	SGS (Layne)	01/22/18	em20180122.006	Email from Layne on 01/22/2018	We did not identify the performance of an FDEP-approved injection test during the well construction phase per se. That will occur after the WRF and injection well system are on line and connected, and we can inject reclaimed water at a rate of 5 to 6 MGD or greater for 8 to 12 hours What we propose is a recirculation test. After purging and measuring the hydraulics of injection the well at approximately 1,400 and collecting the background water quality sample (item 1.34 of C&T procedures plan), we propose that the driller inject the stored groundwater (minimum of 100,000 gallons per C&T procedures plan) back down the well at approximately 3,500 gpm while measuring well pressures and injection rate. This will provide sufficient information to determine whether this is a 5 MGD well or 15 MGD well and a basis for an injection test plan for submittal to FDEP	KH	01/27/18	Yes
DIW	Where would water come from for the injection test?	SGS (Layne)	01/22/18	em20180122.007	Email from Layne on 01/22/2018	Onsite Potable Water will be available to fill storage tanks that need to be provided by the well driller.	KH	01/27/18	Yes
DIW	Can you clarify the parameters for the core analyses?	SGS (Layne)	01/22/18	em20180122.008	Email from Layne on 01/22/2018	Rock core analyses will include porosity, specific gravity, vertical hydraulic conductivity and horizontal hydraulic conductivity.	KH	01/27/18	Yes
DIW	What is the status of the DEP permit?	SGS (Layne)	01/22/18	em20180122.009	Email from Layne on 01/22/2018	DIW permit submitted on 1/25/18	KH	01/25/18	Yes
DIW	What is the volume for the Injection Test and where will the water be provided from in relation to the well?	SGS (Youngquist)	01/24/18	em20180124.001	Email from Youngquist on 01/23/18	Question withdrawn. DIW work removed from Garney's scope.	MG	03/14/18	Yes

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

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90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
11600 Filters	Section 2.08-F requires a Fiber Optic Patch Panel as defined on dwg I-16. Drawing I-16 does not exist. Provide drawing for patch panel.	TMB (Moss Kelley)	01/29/18	em20180129.001	Email from Brian at Moss Kelley on 1/29				
11301 Chem Pumps	The following will NOT be provided at the local control panels as required by Section 2.01.A.4: - PTT LED white power on indicating light - PTT LED green status light for each pump - Potentiometer for local Hand speed control - DO = Running status for each pump - Reference email for further details	TMB	02/01/18	em20180201.001	Email from Blue Planet on 2/1	Confirmed. Information will be incorporated into 100% design.	S. Romano	02/01/18	Yes
11300 Chem Tanks	Confirm that heat trace and insulation is not required on the chemical tanks	TMB	02/01/18	em20180201.002		Confirmed	S. Romano	02/01/18	Yes
11300 Chem Tanks	Confirm that leak detector assembly is not required for the chemical tanks	TMB	02/01/18	em20180201.002		Confirmed	S. Romano	02/01/18	Yes
11130 Odor Control	2.06.A requires a heater in the Water Control Panel. This is not offered by the specified manuf. Confirm it can be deleted.	TMB	02/02/18	em20180202.001		Acceptable	S. Romano	02/07/18	Yes
11300 Chem Tanks	2.05.B.4 requires down pipes. Confirm these can be deleted.	TMB	02/02/18	em20180202.002		Acceptable	S. Romano	02/07/18	Yes
11401/11402 Pumps	Pumps cannot pass the maximum particle size required by specs. Confirm this is acceptable	TMB	02/02/18	em20180202.003		Acceptable	S. Romano	02/07/18	Yes
11401/11402 Pumps	Motor on WAS pumps need to change from 1.5 Hp to 3 Hp	TMB	02/02/18	em20180202.004		Acceptable	S. Romano	02/07/18	Yes
11401/11402 Pumps	Motor on Scum pumps need to change from 3 Hp to 5 Hp	TMB	02/02/18	em20180202.005		Acceptable	S. Romano	02/07/18	Yes
11501 Turbo Blowers	Blowers require separate 480V, 10A auxiliary feed at each blower. None shown on drawings.	TMB	02/02/18	em20180202.006		KH will coordinate	S. Romano	02/07/18	No
11601 Vertical Pumps	1.03.C.5: RCF above ground + shaft calculations are being offered. Confirm no additional analyses are required. 1.04.A: Please base warranty length on shipped date or advise how long after it ships they will be started permanently. 1.05.B.2: Plant Water pumps conditions are not included in the specs, so attached documents were used.	TMB (Carter VerPlanck)	02/08/18	em20180208.001		1.03.C.5 - No additional analysis needed 1.04.A - Garney to address 1.05.B.2 - Will be addressed in 100% design	KH	03/14/18	No

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

West Villages uthwest WRF
90% DESIGN CLARIFICATIONS

Drawing / Spec Reference	Comment	Comment by:	Date Sent	Item #	Notes	Response	Response By	Response Date	Resolved (Yes/No)
11601 Vertical Pumps	2.02.E: Bearing and bearing retainers materials are not specified. Bronze and cast iron, respectively were assumed. 2.02.F: It wasn't specified if threaded or flanged column is required, so flanged was assumed. 2.02.F: The specs don't specify discharge head material. Since the pump will be running on VFD, we recommend specifying carbon steel. 2.02.G: Flowserve would provide the ports for the pre-lubrication system and solenoid valve. Controls to be provided by others.	TMB (Carter VerPlanck)	02/08/18	em20180208.002		2.02.E - Bronze and cast iron are acceptable 2.02.F - Flanged is acceptable. 2.02.F - Carbon steel is acceptable 2.02.G - Acknowledged	KH	03/14/18	Yes
11601 Vertical Pumps	2.04.A.2.b: The family of curves is to be created using Affinity laws 2.09: Tnemec N140 coating was assumed. - Motor enclosure and shaft type weren't provided in VTP section, so TEFC and VSS were assumed. - Sections for above speed critical speed	TMB (Carter VerPlanck)	02/08/18	em20180208.003		2.04.A.2.b - Confirmed 2.09 - Manufacturer's standard finish coating is acceptable.	KH	03/14/18	Yes
Sketch for FM tie-in at US41	The directional drill option shows 24" diameter but that pipe is 12", please confirm it should be 12" What size will the casing for the jack and bore be if we are installing 12" pipe?	S. Smith	02/15/18	2018.02.15-001		The pipe should be 12". Use 30" well casing. KH will work with FDOT during design to see if the casing size can be reduced.	L. Bryant	02/15/18	Yes

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

CHANGE ORDER NO. 2

Date of Issuance: _____ Effective Date: _____

Project: ***WEST VILLAGES SOUTHWEST WASTEWATER RECLAMATION FACILITY***	Owner: ***WEST VILLAGES IMPROVEMENT DISTRICT***	Agreement No.: **n/a**
Contract: **Construction Management Agreement**		Date of Agreement: **March 9, 2018 (assigned to WVID 4/12/18)**
Contractor/Vendor: **Garney Companies, Inc.**		Architect's/Engineer's Project No.: **n/a**

The foregoing agreement is modified as follows upon execution of this Change Order:

Description:
Material deductions and scope modifications due to value engineering proposals, subsurface soil conditions, and drawing revisions

Attachments:
Proposals

CHANGE IN CONTRACT PRICE:

Original Contract Price:

$14,304,745.00

Increase/~~Decrease~~ from prior Change Orders:

$23,674,418.00

Contract Price prior to this Change Order:

$37,979,163.00

~~Increase~~/Decrease of this Change Order:

<$5,728,081.00>

Contract Price incorporating this Change Order:

$32,251,082.00

CHANGE IN CONTRACT TIMES:

Original Contract Times: ~~Working days~~ Calendar days

Substantial completion (days or date): **640**

Ready for final payment (days or date): **670**

Increase/Decrease from previously approved Change Orders

Substantial completion (days): **0**

Ready for final payment (days): **0**

Contract Times prior to this Change Order:

Substantial completion (days or date): **640**

Ready for final payment (days or date): **670**

Increase/Decrease of this Change Order:

Substantial completion (days or date): **9**

Ready for final payment (days or date): **9**

Contract Times with all approved Change Orders:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

RECOMMENDED BY:	ACCEPTED:	ACCEPTED:
Kimley-Horn & Associates, Inc.	**West Villages Improvement District**	**Garney Companies, Inc.**
PROJECT ENGINEER		
By: Ashley M. Miele	By: _____	By: _____
Title: Project Engineer	Title: _____	Title: COO
Date: 10/3/2018	Date: _____	Date: 10/10/18

CHANGE ORDER NO. 2

Date of Issuance: _____ Effective Date: _____

Project:	Owner:	Agreement No.:
WEST VILLAGES SOUTHWEST WASTEWATER RECLAMATION FACILITY	***WEST VILLAGES IMPROVEMENT DISTRICT***	**n/a**
Contract: **Construction Management Agreement**		Date of Agreement: **March 9, 2018 (assigned to WVID 4/12/18)**
Contractor/Vendor: **Garney Companies, Inc.**		Architect's/Engineer's Project No.: **n/a**

The foregoing agreement is modified as follows upon execution of this Change Order:

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Original Contract Times: ~~Working days~~ Calendar days

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Ready for final payment (days or date): **670**

Increase/Decrease from previously approved Change Orders

Substantial completion (days): **0**

Ready for final payment (days): **0**

Contract Times prior to this Change Order:

Substantial completion (days or date): **640**

Ready for final payment (days or date): **670**

Increase/Decrease of this Change Order:

Substantial completion (days or date): **9**

Ready for final payment (days or date): **9**

Contract Times with all approved Change Orders:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

RECOMMENDED BY:	ACCEPTED:	ACCEPTED:
Kimley-Horn & Associates, Inc.	**West Villages Improvement District**	**Garney Companies, Inc.**
PROJECT ENGINEER		
By: _____	By: _____	By: _____
Title: _____	Title: _____	Title: _____
Date: _____	Date: 10/11/18	Date: _____

PROPOSAL SUMMARY

Deduct value of Owner Direct Purchase items from Garney's Contract. Reference the attached Direct Purchase Equipment Contracts Summary for details.

<$5,728,081.00>

Modify the scope of supply for concrete work, process equipment, and electrical work in accordance with the attached Value Engineering Proposal.

<$448,180.00>

Additional unit price work to contend with unforeseen subsurface rock and saturated soil conditions. Reference the attached proposal PCI-01 for details.

$376,526.00

Modify metal buildings as requested by the City of North Port Utilities and to comply with changes associated with the Conformed Drawings. Reference the attached proposal PCI-03 for details.

$191,802.00

Decrease contingency to balance Garney's contract value

<$120,148.00>

Increase duration of contract by nine (9) calendar days due to abnormal weather conditions during the month of May 2018. Reference attached correspondence for details.

Description	Selected Manufacturer	GMP1 Amount w/o Sales Tax	GMP2 Amount w/o Sales Tax	Price Change w/o Sales Tax	Sales Tax Savings	Comments
Div. 16 - Electrical Gear	Sq D	$ 999,909	$ 1,054,669	$ 54,760	$ 63,330	Multiple changes from 100% drawings. Still need to account for changes to MCC's for mixers.
	Revised G1-040 Total w/ Tax		**$ 1,117,999**			
16216 - Generator	CAT	$ 621,000	$ 621,000	$ -	$ 37,310	
	Revised G1-050 Total w/ Tax		**$ 658,310**			
11130 - Odor Control Euipment	BioAir	$ 140,000	$ 149,192	$ 9,192	$ 9,002	Added UPS, surge suppression, and powder coating/sunshields to control panels
11200 - Wash/Press	Huber	w/11203	w/11203			
11201 - Grit Removal Equipment	Eutek Headcell	$ 332,000	$ 334,815	$ 2,815	$ 20,139	Added powder coating/sunshields to control panels
11203 - Mechanical Step Screens	Huber	$ 159,000	$ 160,950	$ 1,950	$ 9,707	Added powder coating/sunshields to control panels
11204 - Launder Channel	Huber	w/11203	w/11203			
11300 - Chemical Tanks	Poly Processing	$ 42,787	$ 42,787	$ -	$ 2,617	
11301 - Chemical Metering Pumps	Blue Planet	$ 53,500	$ 53,500	$ -	$ 3,260	
11400 - Clarifier Equipment	Ovivo/MFG	$ 295,698	$ 302,914	$ 7,216	$ 18,225	Added powder coating/sunshields to control panels. Added HDG in lieu of finish painting for mechanism.
11401 - Screw Centrifugal Pumps	Wemco	$ 245,000	$ 233,000	$ (12,000)	$ 14,030	Reduced RAS pump size
11402 - Subm. Chopper Pumps	Wemco	w/11401	w/11401			
11500 - MLE Basin Diffusers	Sanitaire	$ 205,000	$ 205,000	$ -	$ 12,350	
11501 - Turbo Blowers	ABS Sulzer	$ 353,900	$ 353,900	$ -	$ 21,284	
11502 - Anoxic Mixers	Flygt	w/11500	w/11500			
11503 - Horizontal Dry Pit Pumps	Flygt	$ 118,495	$ 118,495	$ -	$ 7,160	
11550 - Digester Diffusers	Sanitaire	w/11500	w/11500			
11551 - PD Blowers	Aerzen	$ 224,000	$ 180,572	$ (43,428)	$ 10,884	Deleted VFD's. Moved to Electrical Gear Package
11552 - Decanter	Mass Transfer	$ 28,900	$ 28,900	$ -	$ 1,784	
11600 - Deep Bed Filters	DeNora	$ 882,730	$ 894,340	$ 11,610	$ 53,710	Changed valves, added powder coating/sunshields to control panels. Verify added cost with Moss Kelley.
11601 - Vertical Pumps	Flowserve	$ 205,000	$ 205,000	$ -	$ 12,350	
1,000 gal bladder tank	Hydro Air	$ 10,000	$ -	$ (10,000)	$ 50	Deleted bladder tank
11700 - Centrifuge	Hiller	$ 437,200	$ 444,700	$ 7,500	$ 26,732	Added air conditioner and sunshield to control panel
11800 - Fabricated Gates	Whipps	$ 73,000	$ 73,000	$ -	$ 4,430	
11900 - Submersible Pumps	Flygt	$ 156,347	$ 146,347	$ (10,000)	$ 8,831	Deleted control panels. Moved to I&C scope.
		$ 3,962,557	$ 3,927,412	$ (35,145)	$ 236,545	
	G1-060 Total w/ Tax		**$ 4,163,957**			
G2-060 Septage Receiving Station	JWC	$ -	$ 125,000	$ 125,000	$ 7,550	Through Barney's, need to verify control panel
	G2-060 Total w/ Tax		**$ 132,550**			

Total Sales Tax Savings $ 344,735 GMP-1 Savings 338,861, Additiona Savings 5,874

TOTAL ODP DEDUCT: $5,728,081.00

Garney CONSTRUCTION
ADVANCING WATER

VALUE ENGINEERING
West Villages SWWWRF

Next Step	#	Item	Amount	Status
	1	**General Items**		
	2	**Civil**		
	3	**Concrete / Structural**		
Issue CO	A	Reduce reinforcing at Filters, CCC/EPS, Digesters, and MLE Tanks per Redline Markups to 100% Drawings	$ (92,861)	Approved
	5	**Misc. Metals**		
	9	**Painting**		
	10	**Architectural Changes**		
	11	**Process Equipment**		
Issue CO	A	Change Backwash Pump manufacturer from KSB to Flygt - Additional $90,900 paid under WVID's contract with Xylem	$ -	Approved
Issue CO	B	Install (2) 8x10 Reducers for new Flygt Pumps	$ 1,215	Approved
Issue CO	C	Change Filter Control Panel PLC's from Allen Bradley Control Logix to Compact Logix	$ (17,267)	Approved
Issue CO	D	Install Septage Receiving Station Components - Manufacturer cannot ship equipment pre-assembled	$ 5,684	Approved
	15	**Mechanical / Piping**		
	16	**Electrical**		
Issue CO	B	Change Underground Control Conduit from PVC/GRC to PVC	$ (132,310)	Approved
Issue CO	C	Modify Electrical Racks - All Aluminum Construction - No powder coating is included on sunshields	$ (21,851)	Approved
Issue CO	D	Modify Type D, J, and J1 light fixtures	$ (35,000)	Approved
Issue CO	E	Replace VFD's for Filter Blowers with Soft Starts - Deduct of $22,989 recoverd under WVID contract with Peninsular - Additional Engineering costs of $4,025 to be paid to Kimley-Horn under their contract with WVID	$ -	Approved
Issue CO	F	Delete Flow Meters @ Site LS	$ (7,500)	Approved
Issue CO	G	Generators for Temp. Power due to FPL delays	$ 19,860	Approved
Issue CO	H	Deduct Wifi Towers	$ (168,150)	Approved

Total Value Engineering Services Offered:	$ (448,180)
Garney Services / Shared Savings	$ -
Total VE Deduct:	**$ (448,180)**

Subsurface Rock Unit Prices

Description	Estimated Qty	UOM	Rate	Total
Subsurface Rock Exploration	1	LS	$ 7,643.00	$ 7,643
Rock Screening	340	HR	$ 484.71	$ 164,801
Mobilize Screening Equipment	1	LS	$ 582.84	$ 583
Rock Breaking	150	HR	$ 753.67	$ 113,051
Mobilize Rock Breaking Equipment	1	LS	$ 702.85	$ 703
Purchase Screened Rock	200	LD	$ (200.00)	$ (40,000)
Import Fill from Local Stockpiles	4	LD	$ 80.00	$ 320
Import Fill Mobilization	1	LS	$ 500.00	$ 500
Import Clean Fill from Cemex	7,500	Tons	$ 17.19	$ 128,925
Total:				**$ 376,526**

Garney CONSTRUCTION
370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

June 25, 2018

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Highlights indicate items included in Garney Change Order #2

Re: Southwest WWRF
PCI-01 Subsurface Rock Removal

Dear Mr. Soule,

Garney hereby submits pricing for PCI-01 to remove and process subsurface rock. The following table contains unit rates and estimated quantities for rock removal as well as options for rock processing. Reference the descriptions below for details.

Item	Description	Rate	Estimated Qty	UOM	Estimated Total
1	**GARNEY HOURLY RATES FOR ROCK REMOVAL**				
1a	Rock Breaking for Yard Pipe	$ 591	140	Hr	$ 82,740
1b	Fixed Costs	$ 7,643	1	LS	$ 7,643
2	**WOODRUFF HOURLY RATES FOR ROCK REMOVAL**				
2a	Rock breaking	$ 754	150 ~~340~~	Hr	$ 256,248
2b	Mobilize Rock Breaking Equipment	$ 703	1	LS	$ 703
3	**WOODRUFF HOURLY RATES FOR ROCK PROCESSING**				
3a	Rock Screening	$ 485	340	Hr	$ 164,801
3b	Mobilize Screening Equipment	$ 583	1	LS	$ 583
3c	Rock Hauling	$ 120	570	Hr	$ 68,246
4	**WOODRUFF PER LOAD COSTS TO IMPORT/EXPORT FILL**				
4a	Export Rock/Import Fill from Site #1	$ 80 ~~164~~	4 ~~556~~	Loads	$ 91,173
4b	Export Rock/Import Fill from Site #2	$ 228	556	Loads	$ 126,801
4c	Push up Rock Pile	$ 40	1,112	Loads	$ 44,436
4d	Mobilize Loader	$ 500	1	LS	$ 500
4e	Mobilize Dozer	$ 500	1	LS	$ 500
4f	Purchase Import Material	$ 70	1,112	Loads	$ 77,340

Item 1 – Garney Hourly Rates for Rock Removal: **Estimated Cost = $90,383**
Work includes removal of subsurface cap rock encountered during excavation for yard pipe as well as fixed costs for potholing and equipment setup. Reference the attached drawing for locations where yard pipe is expected to be below cap rock.

Item 2 – Woodruff Hourly Rates for Rock Removal: **Estimated Cost = $256,951**
Work includes removal of subsurface cap rock encountered during excavation of ponds, structures, storm drains, and yard piping.

Item 3 – Woodruff Hourly Rates for Rock Processing: **Estimated Cost = $233,630**
Work includes rates to screen excavated material and haul rock to a nearby offsite location. Woodruff has also included rates for rock crushing in their attached quote in case West Villages would prefer to use the excavated rock as backfill material rather than haul it offsite.

Item 4 – Woodruff Per Load Cost to Import/Export Fill: **Estimated Cost = $340,749**
Work includes rates to export excavated material to West Villages' stockpile located near East River Road and to import material from West Villages' nearby stockpiles.

The time impact of rock removal and processing is not currently known. Garney reserves its right to request a contract time extension if the critical path of the project is impacted by these activities.

Please note that this is a unit price proposal. All unit price quantities are estimated and may increase or decrease. The scope of work is only as specifically included in this proposal.

Sincerely,

Max Glynn
Senior Project Manager

Cc: Eng. File, SLF

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton Florida 34203 (physical)
P.O. Box 10127, Bradenton Florida 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379
www.woodruffandsons.com

Proposal

OFFICIAL USE ONLY
- ☐ Job No: 2697
- ☐ Control No: P005a
- ☐ Log Date: 6/20/2018
- ☐ Invoice No:
- ☐ Change Order No:

To:	Garney Construction	Contact:	Max Glynn
Address:	370 E. Crown Point Road	Tel No:	(321) 221-2832
	Winter Garden, FL 34787	Email:	mglynn@garney.com
Project Name:	West Villages Southwest Wastewater Reclamation Facility	Bid No:	P18-012
Project Location:	River Road & Tamiami Trail - North Port, FL	Bid Date:	Thursday, January 25, 2018

Item #	Item Description:	Estimated Quantity	Unit	Unit Price	Total Price
	Export Rock/Import Fill Site #1	4 ~~556.00~~	~~ld~~	$ 80.00 ~~163.98~~	$ 91,172.88
	Export Rock/Import Fill Site #2	556.00	ld	$ 228.06	$ 126,801.36
	Push up Rock Pile	1,112.00	ld	$ 39.96	$ 44,435.52
	Mobilize Loader	1 ~~2.00~~	ea	$ ~~500.00~~	$ 1,000.00
	Mobilize Dozer	1.00	ea	$ 500.00	$ 500.00
	$ 263,909.76				
	Rock Screening	~~1.00~~	~~hr~~	$ ~~484.71~~	
	Rock Breaking	~~1.00~~	~~hr~~	$ ~~753.67~~	
	Rock Crushing on site	1.00	hr	$ 877.75	
	Rock Hauling	1.00	hr	$ 119.73	
	Furnish & Deliver 57 Bedding Stone	1.00	tn	$ 31.19	
	Mobilize Screening equipment	~~1.00~~	~~ls~~	$ ~~582.84~~	
	Mobilize Rock Breaking Equipment	~~1.00~~	~~ls~~	$ ~~702.85~~	
	Mobilize Rock Crusher	1.00	ls	$ 15,822.91	

Notes:
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
Export Rock / Import Fill includes a back hoe to load out material, and loader to load the fill material.
Push up rock pile, is just a dozer to push up the rock as it is delivered to the dump site.
The loader will have to be moved from site one, to site two, hence the two mobilizations.
Price of fill material is excluded, owner to supply all fill material.
Hourly rate for tasks listed above.
Quantities are approximate.

Payment Terms: Payment due within 30 days of date of invoice, regardless of when payment is made by Owner.

ACCEPTED:
The above prices, specifications and conditions are satisfactory and hereby accepted.
Buyer: _____
Signature: _____
Printed Name:
Date of Acceptance: _____

CONFIRMED:
Woodruff & Sons, Inc.
Authorized Signature: _____
Donald P. Woodruff, President
Estimator: Matt Anderson (matta@woodruffandsons.com)

CEMEX

CEMEX
3820 Northdale Blvd Ste 100B
Tampa, FL 33624-1860

CEMEX Construction Materials Florida, LLC
CEMEX One

INVOICE

Date: 08/20/2018
Invoice No: 9438255439
Terms: Net 15th
Payment Due On: 09/15/2018
Job No: 14601962
Legal Address: 8898 SOUTH TAMIAMI TRAIL
Customer Job No. WEST VILLAGES
Account No: 3089181
Account Name: GARNEY COMPANIES INC

INV2_INS ▲ 000005
GARNEY COMPANIES INC
DBA GARNEY CONSTRUCTION
1333 NW VIVION RD
KANSAS CITY MO 64118-4554

AUG 2 8 2018

For All Inquiries Call:
800-398-2869

Remit To:
CEMEX | PO Box 73261 | Chicago, IL 60673-3261

DETAILED INFORMATION BY PO

PO Number: 0547P021 | **DELIVERY ADDRESS: 8898 SOUTH TAMIAMI TRAIL, VENICE, FL, 34293**

Ship Date	Delivery	Ref #	Product Code / Description	Qty	UOM	Net Price By UOM	Units	Amount	Freight	Tx
08/20/2018	8080471617	1319928724	1165694 LAKE FILL	23.770	TON	$5.10 1 TON	23.770	$121.23	$240.08	T
08/20/2018	8080471617	1319928724	1261307 FUEL SURCHARGE,PER TON	23.770	TON	$1.51 1 TON	23.770	$0.00	$36.01	
08/20/2018	8080471617	1319928724	1566257 SERV,PANTHER MITIGATION PER LOAD	1.000	PC	$2.50 1 PC	1.000	$2.50	$0.00	T
08/20/2018	8080472123	1319928727	1165694 LAKE FILL	23.670	TON	$5.10 1 TON	23.670	$120.72	$239.07	T
08/20/2018	8080472123	1319928727	1261307 FUEL SURCHARGE,PER TON	23.670	TON	$1.51 1 TON	23.670	$0.00	$35.86	
08/20/2018	8080472123	1319928727	1566257 SERV,PANTHER MITIGATION PER LOAD	1.000	PC	$2.50 1 PC	1.000	$2.50	$0.00	T
08/20/2018	8080472168	1319928762	1165694 LAKE FILL	23.140	TON	$5.10 1 TON	23.140	$118.01	$233.71	T
08/20/2018	8080472168	1319928762	1261307 FUEL SURCHARGE,PER TON	23.140	TON	$1.52 1 TON	23.140	$0.00	$35.06	
08/20/2018	8080472168	1319928762	1566257 SERV,PANTHER MITIGATION PER LOAD	1.000	PC	$2.50 1 PC	1.000	$2.50	$0.00	T
08/20/2018	8080472174	1319928765	1165694 LAKE FILL	23.550	TON	$5.10 1 TON	23.550	$120.11	$237.86	T
08/20/2018	8080472174	1319928765	1261307 FUEL SURCHARGE,PER TON	23.550	TON	$1.52 1 TON	23.550	$0.00	$35.68	
08/20/2018	8080472174	1319928765	1566257 SERV,PANTHER MITIGATION PER LOAD	1.000	PC	$2.50 1 PC	1.000	$2.50	$0.00	T

PO Subtotal	0.00 Yards	94.13 Tons	$490.07 Material	$1,093.33 Freight	$0.00 Other	$34.32 Tax	$1,617.72 Total

Unit Price for Import Fill = $17.19/Ton

0.00 Yards	94.13 Tons	$1,093.33 Freight	$0.00 Other	$34.32 Tax	$1,617.72 Invoice Total

The invoice incorporates herein by reference Buyer's previously executed Credit Application, if any, Sellers Standard Terms and Conditions, Seller's Quotation and Seller's Order Confirmation (if applicable) and the terms set forth on this Invoice ("Agreement"). Buyer agrees that, unless otherwise noted herein, all quantities and items were delivered as indicated and further expressly agrees to pay in accordance with this Agreement. Interest shall accrue on late payments.

Garney CONSTRUCTION
370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

September 23, 2018

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Re: Southwest WWRF
PCI-03 Metal Building Changes

Dear Mr. Soule,

Garney hereby submits pricing for PCI-03 in the amount of $191,802.00 to modify the metal buildings. This proposal includes costs associated with changes to the Control Building, Blower/Electrical Building, Chemical/Electrical Building, and Solids Handling Building. A summary of the changes is noted below.

Control Building Changes: $78,795.00

- Change wall panels from metal to 8" split face block with integral color as requested by the City of North Port and detailed in revised drawings from Kimley-Horn that were provided to Garney on 8/28/18.

Blower/Electrical Building Changes: $55,726.00

- Changes from 100% to Conformed Drawings
  - Change rebar spacing from 48" on center to 8" on center
  - Increase depth of footing under center wall from 16" to 20"
  - Change metal stud thickness from 24 gauge to 16 gauge
  - Add concrete columns at overhead door
  - Added control joints at masonry walls
- Changes from Architect's Response to Submittal 05500-02
  - Increased depth of column footers to 24"
  - Added continuous channel at top of CMU wall
  - Added 16 gauge angle braces to top of interior wall

Chemical/Electrical Building Changes: $48,311.00

- Changes from 100% to Conformed Drawings
  - Change CMU thickness from 8" to 12"
  - Change rebar spacing from 48" to 32" at building corners
  - Change metal stud thickness from 24 gauge to 16 gauge
- Anticipated Changes based on Architect's Response to Submittal 05500-02
  - Increased depth of column footers to 24"
  - Added continuous channel at top of CMU wall
  - Added 16 gauge angle braces to top of interior wall

Solids Handling Building Changes: $8,970.00

- Changes from 100% to Conformed Drawings
  - Extend width of building from 40'-0" to 41'-8"

Please note that additional changes may be required for the referenced buildings based on comments from the Building Department and future submittal review comments from the Architect.

The changes to the metal buildings have impacted the construction schedule. Garney is working to expedite the remaining documentation required to begin construction of these buildings but cannot determine the full schedule impact until the Architect and Building Department have completed their respective reviews. Garney reserves the right to request a time extension at a later date if warranted by the delays associated with these buildings.

The scope of work is only as specifically included in this proposal.

Sincerely,

Max Glynn
Senior Project Manager

Cc: Eng. File, SLF

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF
West Villages

Date: September 5, 2018

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Solid handling building---provide all labor and material for the additional concrete, foundation, concrete slab, metal building framing, and metal building roofing to extend the width of the building to 41'-8" in lieu of the 40'-0" on the original plans.

ADD $8,970.00

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF
West Villages

Date: September 13, 2018

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Modify the split face block design as per the revised drawing from Garney Construction for the Chemical/Electrical Building.

   ADD $36,120.00

2. Modify the split face block design as per the revised drawing from Garney Construction for the Blower/Electrical Building.

   ADD $43,535.00

3. Change the exterior walls to 8" split face block in lieu of metal wall panels. For the Control Building, every fourth masonry cell shall be filled and a double block tie beam will be used. No modification to the foundation is included.

   ADD $78,795.00

Owner Change Order Required: Yes _√_ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF
West Villages

Date: September 21, 2018

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Blower/Electrical Building---provide all labor and material for the additional concrete work, metal framing work, and metal channel work. As per the revised plans by Kimley Horn, dated 9/13/2018.

   ADD $12,191.00

2. Chemical/Electrical Building---provide all labor and material for the additional concrete work, metal framing work, and metal channel work.

   ADD $12,191.00

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

Garney CONSTRUCTION

370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

June 12, 2018

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Re: Southwest WWRF
May 2018 Weather Delays

Dear Mr. Soule,

In accordance with Article 4.03 of the Modified General Conditions (Exhibit I of the Agreement), Garney hereby requests a time extension of 9 calendar days for abnormal weather conditions experienced during the month of May 2018. The torrential rain events that occurred over this period delayed critical construction activities, and were beyond the control of Garney.

During the preconstruction phase, Garney compiled seven years of weather data from a NOAA weather station located in Punta Gorda (4 ESE, FL US USC00087397) to tabulate the expected weather delays for the project schedule. Specifically, the number of days with 1" or greater rainfall in a month were added to the CPM schedule as weather days. Based on this data, Garney expected one (1) weather day during the month of May. The actual number of days with 1" or greater rainfall was ten (10) days. Referenced the attached weather data for specific details.

Please provide approval of the request for a nine (9) calendar day time extension by July 10, 2018.

Sincerely,

Max Glynn
Senior Project Manager

Cc: S. Reuter, Eng. File, SLF

NOAA Monthly Summary - Punta Gorda 4 ESE, FL US USC00087397
Average Number of Calendar Days with Precipitation of 1.0 Inches or More in a Single 24-hour Period
Seven year average (2011 - 2017)

ANTICIPATED WEATHER DELAYS

Year	Month											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2011	1	0	1	1	1	2	4	1	2	4	0	0
2012	0	0	0	0	2	5	3	6	2	3	0	1
2013	0	1	0	1	1	6	6	4	3	1	0	0
2014	1	0	2		1	1	0	3	5	0	1	0
2015	0	1	1	0	0	3	2	4	3	0	1	1
2016	3	1	1	0	2	5	4	2	4	2	0	0
2017	0	0	0	1	1	6	3	7	2	1	0	
Average	**0.7**	**0.4**	**0.7**	**0.5**	**1.1**	**4.0**	**3.1**	**3.9**	**3.0**	**1.6**	**0.3**	**0.3**
Expected Delays	**1**	**0**	**1**	**1**	**1**	**4**	**3**	**4**	**3**	**2**	**0**	**0**

ACTUAL WEATHER DELAYS

Year	Month											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Expected	**1**	**0**	**1**	**1**	**1**	**4**	**3**	**4**	**3**	**2**	**0**	**0**
2018 - Actual	-	-	-	-	10							
Delta	-	-	-	-	9							

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Current Location: Elev: 20 ft. Lat: 26.9146° N Lon: -81.9968° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.
Generated on 06/06/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Observation Time Temperature: 1800 Observation Time Precipitation: 1800

Year	Month	Day	Temperature (F)			Precipitation					Evaporation		Soil Temperature (F)					
			24 Hrs. Ending at Observation Time		At Observation	24 Hour Amounts Ending at Observation Time				At Obs. Time			4 in. Depth			8 in. Depth		
			Max.	Min.		Rain, Melted Snow, Etc. (in)	Flag	Snow, Ice Pellets, Hail (in)	Flag	Snow, Ice Pellets, Hail, Ice on Ground (in)	24 Hour Wind Movement (mi)	Amount of Evap. (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
2018	05	01	89	59	85	0.00												
2018	05	02	92	59	86	0.00												
2018	05	03	92	60	88	0.00												
2018	05	04	93	63	89	0.00												
2018	05	05	89	63	86	0.15												
2018	05	06	91	70	84	0.00												
2018	05	07	94	72	88	0.00												
2018	05	08	93	64	91	0.00												
2018	05	09	93	61	89	0.00												
2018	05	10	90	63	86	0.00												
2018	05	11	94	63	88	0.00												
2018	05	12	89	69	81	0.00												
2018	05	13	83	66	73	1.95	1											
2018	05	14	82	70	77	0.20												
2018	05	15	91	71	79	0.30												
2018	05	16	91	69	84	1.25	2											
2018	05	17	86	71	72	1.48	3											
2018	05	18	92	68	85	0.05												
2018	05	19	88	69	72	1.52	4											
2018	05	20	80	69	75	1.73	5											
2018	05	21	86	71	83	0.17												
2018	05	22	83	72	73	1.30	6											
2018	05	23	92	69	75	0.50												
2018	05	24	91	68	77	0.38												
2018	05	25	92	69	72	2.00	7											
2018	05	26	79	70	70	1.00	8											
2018	05	27	85	68	83	1.30	9											
2018	05	28	87	77	82	0.00												
2018	05	29	87	73	84	0.00												
2018	05	30	87	73	79	2.10	10											
2018	05	31	89	75	84	0.10												
		Summary	89	68		17.48		0.0										

Empty, or blank, cells indicate that a data observation was not reported.

*Ground Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass muck; 8=Bare muck; 0=Unknown

"s" This data value failed one of NCDC's quality control tests.

"T" values in the Precipitation or Snow category above indicate a "trace" value was recorded.

"A" values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Data value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Global Summary of the Month for 2011

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	61.4	73.1	49.6	142	29	80	25	32	13	0	0	1	0	2.50	1.90	26				3	3	1
Feb	66.4	78.6	54.1	50	88	85	28	39	14	0	0	0	0	0.50	0.30	10				2	2	0
Mar	69.2	82.5	55.8	24	153	91	28	40	12	2	0	0	0	1.70	1.40	10				4	2	1
Apr	75.2	89.3	61.1	0	296	94	28	51	06	15	0	0	0	1.68	1.00	29				4	2	1
May	78.9	92.9	64.8	0	429	96	30	59	19	26	0	0	0	1.20	1.04	15				4	2	1
Jun	82.2	94.6	69.7	0	515	98	18	64	03	27	0	0	0	4.20	1.60	28				8	7	2
Jul	84.0	93.4	74.7	0	590	99	22	71	03	27	0	0	0	11.87	2.40	08				16	14	4
Aug	84.9	94.1	75.6	0	597	97	27	69	15	29	0	0	0	6.40	1.58	11				17	15	1
Sep	82.4	92.2	72.7	0	522	96	12	70	17	28	0	0	0	6.53	2.00	20				11	9	2
Oct	74.0	83.7	64.4	2	282	93	09	52	23	1	0	0	0	8.76	2.01	09				10	9	4
Nov	70.4	81.6	59.3	4	167	88	15	47	12	0	0	0	0	1.52	0.85	22				3	3	0
Dec	67.3	79.4	55.3	34	104	87	09	41	29	0	0	0	0	0.19	0.13	27				5	1	0

Notes

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A Accumulated amount.

X Monthly means or totals based on incomplete time series.

T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Global Summary of the Month for 2012

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	64.0	77.7	50.3	78	46	84	26	29	04	0	0	1	0	0.76	0.76	27				1	1	0
Feb	70.0	81.4	58.6	16	157	89	02	35	13	0	0	0	0	0.79	0.30	11				5	3	0
Mar	71.7	85.3	58.1	9	217	89	26	41	05	0	0	0	0	0.67	0.49	20				2	2	0
Apr	73.6	87.4	59.8	0	258	93	13	48	26	9	0	0	0	2.28	0.93	22				6	4	0
May	80.1	91.8	68.4	0	453	94	30	64	11	27	0	0	0	4.21	1.65	26				8	4	2
Jun	80.8	90.4	71.3	0	443	95	19	65	19	22	0	0	0	12.99	3.20	24				14	12	5
Jul	83.3	93.0	73.6	0	548	97	03	71	17	27	0	0	0	8.18	2.50	13				13	11	3
Aug	83.6	92.9	74.3	0	538	96	12	71	25	27	0	0	0	11.60	2.60	27				17	15	6
Sep	81.6	90.2	73.1	0	499	94	01	70	27	20	0	0	0	6.02	1.85	11				12	11	2
Oct	77.2	86.6	67.9	5	384	93	05	50	30	6	0	0	0	7.17	1.95	04				9	7	3
Nov	66.1	78.3	53.9	30	63	85	04	44	26	0	0	0	0	0.00	0.00	01				0	0	0
Dec	67.1	80.2	54.0	46	111	86	11	34	23	0	0	0	0	1.61	1.00	12				8	2	1

Notes

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T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service

Global Summary of the Month for 2013

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	67.6	79.4	55.9	31	107	86	09	42	18	0	0	0	0	0.46	0.30	31				3	2	0
Feb	66.8	81.1	52.6	65	117	91	24	32	19	1	0	1	0	2.25	2.10	14				3	2	1
Mar	63.5	76.9	50.2	108	62	87	21	35	05	0	0	0	0	1.84	0.92	23				8	6	0
Apr	75.6	87.3	64.0	0	319	94	15	57	06	7	0	0	0	3.68	1.60	22				6	5	1
May	76.4	88.3	64.5	0	353	94	26	56	14	14	0	0	0	4.76	2.50	24				7	5	1
Jun	82.0	90.9	73.1	0	493	95	17	71	26	24	0	0	0	11.04	1.90	01				18	9	6
Jul	81.9	90.7	73.1	0	524	94	21	70	19	22	0	0	0	12.15	2.20	01				19	16	6
Aug	83.1	92.7	73.6	0	562	96	14	71	28	27	0	0	0	13.59	2.80	25				20	17	4
Sep	81.4	90.0	72.9	0	493	95	01	69	29	20	0	0	0	11.06	4.70	24				18	16	3
Oct	77.7	88.1	67.3	0	393	92	24	56	27	11	0	0	0	3.74	2.30	03				6	5	1
Nov	72.3	81.9	62.6	13	230	89	18	40	28	0	0	0	0	1.72	0.55	29				9	6	0
Dec	69.7	79.9	59.6	15	162	87	22	47	19	0	0	0	0	0.62	0.60	29				3	1	0

Notes

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A Accumulated amount.

X Monthly means or totals based on incomplete time series.

T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service

Global Summary of the Month for 2014

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W

Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	61.4	72.8	50.0	167	55	84	05	35	24	0	0	0	0	3.69	1.62	30				9	8	1
Feb	68.1	80.6	55.5	24	106	86	21	41	16	0	0	0	0	1.25	0.95	13				3	3	0
Mar	68.5	81.3	55.7	18	128	86	23	43	14	0	0	0	0	5.94	2.71	25				7	7	2
May	78.3	90.1	66.5	0	411	95	24	57	18	22	0	0	0	4.40	2.80	03				7	7	1
Jun	81.6	92.7	70.5	0	497	99	29	67	04	27	0	0	0	6.59	2.35	14				14	10	1
Jul	84.2	94.4	74.1	0	576	98	23	70	10	28	0	0	0	6.10	0.90	13				19	14	0
Aug	84.6	95.1	74.2	0	609	98	24	71	27	30	0	0	0	7.76	1.96	05				14	9	3
Sep	82.1	91.7	72.5	0	462	95	16	71	26	22	0	0	0	12.57	2.55	26				22	17	5
Oct	76.5	88.0	65.2	0	358	93	02	54	27	10	0	0	0	1.87	0.62	04				7	5	0
Nov	66.2	78.6	53.7	65	100	89	01	42	20	0	0	0	0	4.50	2.25	26				7	5	1
Dec	66.7	78.1	55.3	62	114	85	30	42	15	0	0	0	0	0.16	0.10	23				6	1	0

Notes

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A Accumulated amount.

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T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Global Summary of the Month for 2015

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	63.6	75.2	52.0	120	77	86	04	36	29	0	0	0	0	0.49	0.23	24				4	3	0
Feb	62.2	74.0	50.5	117	40	86	22	31	20	0	0	1	0	3.52	3.00	05				5	3	1
Mar	74.3	85.8	62.9	4	294	91	21	47	30	5	0	0	0	2.64	1.10	27				5	4	1
Apr	78.6	89.9	67.3	0	409	95	27	58	01	19	0	0	0	1.71	0.54	14				8	4	0
May	79.7	92.1	67.2	0	455	97	22	58	04	25	0	0	0	1.96	0.80	14				6	5	0
Jun	83.0	93.8	72.1	0	539	97	30	66	03	28	0	0	0	8.61	3.30	11				12	9	3
Jul	83.8	93.0	74.6	0	564	98	01	69	04	27	0	0	0	8.83	1.84	04				15	13	2
Aug	84.1	93.3	75.0	0	593	98	24	70	01	26	0	0	0	10.98	2.20	30				23	16	4
Sep	83.0	91.3	74.7	0	540	97	02	71	22	22	0	0	0	8.15	2.37	29				18	9	3
Oct	78.5	88.1	69.0	0	419	92	10	64	24	8	0	0	0	1.46	0.64	27				9	5	0
Nov	76.4	86.2	66.5	0	341	93	07	52	26	9	0	0	0	1.59	1.48	22				7	1	1
Dec	73.3	82.8	63.7	6	262	89	02	48	19	0	0	0	0	1.87	1.40	04				6	2	1

Notes

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A Accumulated amount.

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T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service

Global Summary of the Month for 2016

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W
Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	62.4	71.8	53.0	130	49	86	01	37	24	0	0	0	0	8.83	2.66	27				10	9	3
Feb	63.9	74.9	52.9	94	63	86	03	40	07	0	0	0	0	3.78	2.68	24				4	3	1
Mar	72.8	84.6	61.0	6	240	91	17	45	23	2	0	0	0	2.08	1.20	19				5	2	1
Apr	74.2	86.2	62.3	1	251	95	29	47	19	4	0	0	0	1.03	0.60	30				4	3	0
May	78.5	90.4	66.6	0	420	96	31	56	07	21	0	0	0	3.30	1.63	04				4	3	2
Jun	83.3	92.5	74.2	0	550	96	25	68	21	24	0	0	0	13.54	2.95	05				18	14	5
Jul	85.1	94.9	75.3	0	623	99	13	69	16	31	0	0	0	8.36	1.37	24				15	13	4
Aug	84.7	93.5	75.9	0	610	97	28	72	03	26	0	0	0	6.67	1.10	27				18	16	2
Sep	84.2	93.7	74.8	0	577	97	23	72	25	26	0	0	0	9.56	2.12	06				15	10	4
Oct	78.8	88.8	68.7	0	427	94	08	53	23	13	0	0	0	3.23	1.35	04				7	5	2
Nov	70.2	82.4	58.1	13	170	87	09	42	22	0	0	0	0	0.01	0.01	30				1	0	0
Dec	71.9	83.4	60.5	9	224	90	18	40	31	1	0	0	0	0.38	0.24	06				5	1	0

Notes

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A Accumulated amount.

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T Trace Amount.

EXHIBIT 5 to Resolution No. 2020-R-07

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service

Global Summary of the Month for 2017

Generated on 01/04/2018

National Centers for Environmental Information
151 Patton Avenue
Asheville, North Carolina 28801

Current Location: Elev: 20 ft. Lat: 26.9164° N Lon: -81.9983° W

Station: **PUNTA GORDA 4 ESE, FL US USC00087397**

Date	Temperature (F)													Precipitation (Inches)								
Elem ->	TAVG	TMAX	TMIN	HTDD	CLDD	EMXT		EMNT		DX90	DX32	DT32	DT00	PRCP	EMXP		SNOW	EMSD		DP01	DP10	DP1X
Month	Mean	Mean Max.	Mean Min	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number of Days				Total	Greatest Observed		Snow, Sleet			Number of Days		
										Max >= 90	Max <= 32	Min <= 32	Min <= 0		Amount	Date	Total Fall	Max Depth	Max Date	>=.01	>=.10	>=1.0
Jan	66.8	79.4	54.2	60	114	88	02	37	08	0	0	0	0	0.84	0.46	07				4	3	0
Feb	69.9	83.5	56.3	11	147	91	28	39	17	1	0	0	0	0.96	0.90	22				5	1	0
Mar	70.0	83.3	56.6	24	178	90	30	40	16	4	0	0	0	0.76	0.76	14				1	1	0
Apr	76.2	89.1	63.4	0	337	97	28	52	09	14	0	0	0	1.61	1.45	06				3	2	1
May	80.8	93.2	68.3	0	489	99	29	53	07	27	0	0	0	3.37	1.10	21				7	6	1
Jun	83.3	92.7	74.0	0	550	97	28	70	16	25	0	0	0	15.54	2.05	18				25	19	6
Jul	84.8	94.1	75.5	0	614	100	26	73	31	27	0	0	0	9.20	2.55	31				22	14	3
Aug	85.3	94.4	76.2	0	629	98	18	72	19	28	0	0	0	15.53	3.05	26				16	13	7
Sep	84.4	93.8	74.9	0	524	99	08	71	01	27	0	0	0	6.67	1.72	08				11	8	2
Oct	78.4	87.5	69.3	10	426	96	09	46	31	18	0	0	0	2.75	1.26	29				9	6	1
Nov	72.1	82.9	61.3	0	206	88	07	47	01	0	0	0	0	0.51	0.50	23				2	1	0

Notes

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T Trace Amount.

EXHIBIT to EXHIBIT 5 to Resolution No. 2020-R-07

CHANGE ORDER NO. 3

Date of Issuance: _____ Effective Date: _____

Project: ***WEST VILLAGES SOUTHWEST WASTEWATER RECLAMATION FACILITY***	Owner: ***WEST VILLAGES IMPROVEMENT DISTRICT***	Agreement No.: n/a
Contract: **Construction Management Agreement**		Date of Agreement: **March 9, 2018 (assigned to WVID 4/12/18)**
Contractor/Vendor: **Garney Companies, Inc.**		Architect's/Engineer's Project No.: n/a

The foregoing agreement is modified as follows upon execution of this Change Order:

Description:
Modify requirements for pavement and chain link fence. Revise mechanical work at Influent Flow Meter, Deep Injection Well, and Monitoring Wells.

Attachments:
Proposals

CHANGE IN CONTRACT PRICE:

Original Contract Price:

$14,304,745.00

Increase/~~Decrease~~ from prior Change Orders:

$17,946,337.00

Contract Price prior to this Change Order:

$32,251,082.00

Increase/Decrease of this Change Order:

$0.00

Contract Price incorporating this Change Order:

$32,251,082.00

CHANGE IN CONTRACT TIMES:

Original Contract Times: ~~Working days~~ Calendar days

Substantial completion (days or date): **640**

Ready for final payment (days or date): **670**

Increase/Decrease from previously approved Change Orders

Substantial completion (days): **9**

Ready for final payment (days): **9**

Contract Times prior to this Change Order:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

Increase/Decrease of this Change Order:

Substantial completion (days or date): **0**

Ready for final payment (days or date): **0**

Contract Times with all approved Change Orders:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

RECOMMENDED BY:	ACCEPTED:	ACCEPTED:
Kimley-Horn & Associates, Inc.	**West Villages Improvement District**	**Garney Companies, Inc.**
PROJECT ENGINEER		
By: Ashley M. Mielke	By:	By:
Title: Project Engineer	Title:	Title: COO
Date: February 28, 2019	Date:	Date: 2/28/19

PROPOSAL SUMMARY

Modify Civil scope as follows: reduce pavement thickness, add concrete pavement at Headworks and Septage Receiving Station, add sidewalks, change standard chain link fence to vinyl coated chain link fence.

<$407.00>

Modify scope at the Monitoring Wells per Construction Revision #6. Work includes adding electrical systems to support the Monitoring Well Pumps.

$3,582.00

Modify the influent flow meter piping as requested by the City of North Port Utilities. Work includes relocating the flow meter, adding a bypass line, and installing a concrete slab under the flow meter piping.

$72,444.00

Modify piping at the Deep Injection Well as recommended by Kimley-Horn. Work includes changing the pipe layout, pipe materials, and valve type.

<$2,944.00>

Decrease contingency from $729,852 to $657,177 to balance Garney's contract value.

<$72,675.00>

Garney CONSTRUCTION
370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

December 6, 2018

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Re: Southwest WWRF
PCI-04 Civil, Electrical, and Equipment Changes

Dear Mr. Soule,

Garney hereby submits pricing for PCI-04 in the amount of -$10,286.00 to modify the Civil and Electrical work as noted below. This proposal includes costs associated with changes to the paving, fencing, sidewalk, Scum Pumps, Electrical Gear, and Instrumentation. A summary of the changes is noted below.

Civil Changes	**-$407**
1. Reduce asphalt paving thickness from 3" to 2" as recommended by Kimley-Horn.	-$42,056
2. Replace 10" thick limerock base with 8" FDOT crushed concrete base as recommended by Kimley-Horn.	$22,446
3. Replace standard chain link fence with vinyl coated chain link fence as requested by the City of North Port.	$11,979
4. Replace asphalt paving with concrete paving at the Headworks and Septage Receiving Station per changes from the 100% drawings to conformed drawings.	$3,499
5. Install additional concrete sidewalks per changes from the 100% drawings to the conformed drawings.	$3,725
Electrical & Equipment Changes	**-$9,879**
1. Add starters and enclosed breakers for Monitoring Well Pumps per Construction Revision #6. This change applies to Peninsular's ODP Contract.	$7,091
2. Add electrical stands for enclosed breakers at Monitoring Well Pumps per Construction Revision #6. This change applies to Garney's Contract.	$3,582
3. Add bypass starters to Filter Blower Soft Starts per Construction Revision #5. This change applies to Peninsular's ODP Contract.	$3,548
4. Modify Filter field instruments to match the make/model of instruments provided by the System Integrator. This change applies to Denora's ODP Contract.	$2,369
5. Delete Recirculation System at Scum Pump Station. This change applies to Weir Specialties' ODP Contract.	-$26,469

Please note that some of the items above are associated with Owner Direct Purchase contracts and will require change orders outside of Garney's contract. The following is a breakdown of changes required for each contract:

Garney:	$3,175.00
Peninsular:	$10,639.00
DeNora:	$2,369.00
Weir Pumps:	-$26,469.00

The scope of work is only as specifically included in this proposal. Documentation supporting the above pricing is attached.

Sincerely,

Max Glynn
Senior Project Manager

Cc: Eng. File, SLF

Civil Items #1, 2, and 3

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton, FL 34203 (physical)
P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

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- ☐ Control No: _____
- ☐ Log Date: _____
- ☐ Invoice No: _____
- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - Revised Pavement & Entrance Ditches	**Bid Number:**	2697-P015
Project Location:		**Bid Date:**	10/15/2018

Thank you for the opportunity to quote.

Item #	Item Description	Total Price
Revise Asphalt Thickness		
1	2" SP-12.5 Asphalt (2 Lifts)	$124,012.00
2	Deduct From Contract - 3" SP-12.5 Asphalt (2 Lifts) *	($171,742.00)
Revise Base Thickness		
~~3~~	~~8" Limerock Base (LBR 100)~~	~~$111,542.00~~
4	8" Non-FDOT Crushed Concrete Base (LBR 100) **	$152,048.00
5	Deduct From Contract - 10" Limerock Base (LBR 100) *	($129,602.00)
Material To Make Up For The 3" Lost In Pavement Revision		
6	3" Of Fill Material (Makes Up For The 3" Deducted From The Asphalt And Base Thicknesses)	$5,673.60
Revised Entry Road Ditches		
~~7~~	~~6" Dia. Perforated ADS Pipe With 12"x12" No. 57 Gravel~~	~~$32,468.40~~
~~8~~	~~12" DR-18 PVC Storm Pipe~~	~~$1,656.00~~
~~9~~	~~Tie Into Existing Storm Boxes~~	~~$2,677.48~~
~~10~~	~~Deduct From Contract - Construct Treatment Swales *~~	~~($11,103.60)~~
Revised Fence (Black Vinyl Coated)		
11	6' High All Black Vinyl Coated Chain Link Fence W/ Motorized Steel Gate	$84,656.75
12	Deduct From Contract - 6' Chain Link Fence W/ Motorized Gate *	($72,677.25)

Notes:

- * Pricing from current established contract rates
- ** We feel with the elevation of the water table in comparison to the elevation of the base material that crushed concrete would be a more suitable base material versus limerock in this situation. We cannot gauentee the the longterm durability of our work utilizing limerock as the base mateiral with such a high water table.
- All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
- Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the proposal.
- Any item not specifically listed in this proposal is not included.
- This quotation excludes: rock removal, dewatering, and unsuitable soil.
- The items within this proposal are presented as the entire project, whereby an individual line item may not be removed or eliminated without prior approval.
- Woodruff & Sons, Inc. will not be responsible for identifying or handling any hazardous or contaminated material that may be encountered.
- Prices may be withdrawn by Woodruff & Sons, Inc. if not accepted within 45 days of receiving this proposal.

Payment Terms:

Payment due within 30 days of date of invoice, regardless of when payment is made by Owner.

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton, FL 34203 (physical)
P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

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- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - Revised Pavement & Entrance Ditches	**Bid Number:**	2697-P015
Project Location:		**Bid Date:**	10/15/2018

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____

Signature: _____

Date of Acceptance: _____

CONFIRMED:

Woodruff & Sons, Inc. - Proposal

Authorized Signature: _____

Estimator: Matt Anderson
(941) 756-1871 matta@woodruffandsons.com

Max Glynn

From: Michael Acosta <macosta@cityofnorthport.com>
Sent: Friday, October 5, 2018 1:55 PM
To: Max Glynn; Ashley Miele (Ashley.Miele@kimley-horn.com)
Cc: madeline.kender@kimley-horn.com; Matthew McCreary; Robert Archer; Jennifer Fehrs; Wayne Vowell; Chad Nosbisch; Robert Davies; Michael Vuolo; Rick Newkirk; Jennifer Desrosiers
Subject: RE: Fence Submittal

Max:

The size and barbed wire portion of the fence looks ok to us, vinyl coated fabric and framework in lieu of 'aluminum coated steel' and galvanized steel is our standard for lift stations and what is on the front section of the City's existing Wastewater Treatment plant. The front motorized gate looks substantially less robust than the City's Wastewater Treatment Plant existing gate. We would ask that this be revised to meet the same standard as the City's current plant. Thanks.

Mike

Michael Acosta, P.E.
Utilities Engineering Manager
City of North Port
6644 W. Price Boulevard
North Port, FL 34291
Phone 941.240.8013
Fax 941.240.8022
Cell 941.628.8179
macosta@cityofnorthport.com
www.cityofnorthport.com

A City where you can "Achieve Anything."

From: Max Glynn <mglynn@garney.com>
Sent: Friday, October 5, 2018 9:10 AM
To: Ashley Miele (Ashley.Miele@kimley-horn.com) <Ashley.Miele@kimley-horn.com>; Michael Acosta <macosta@cityofnorthport.com>
Cc: madeline.kender@kimley-horn.com; Matthew McCreary <mmccreary@garney.com>; Robert Archer <rarcher@garney.com>
Subject: FW: Fence Submittal

Ashley and Mike,

Our fence supplier notified us today that they will be seeing a price increases from tariffs in the near future. They want to order their materials now to avoid the increase. Would you mind reviewing the attached product data to confirm that the type of fence and gates proposed are acceptable? We will issue a formal submittal for review next week, but would like to get the materials approved first so they can be ordered. Note that the proposed fence meets the requirements of the contract documents as indicated on the Civil plans (6' fence w/ 3-strand barbed wire).

Thanks,

Max Glynn
Employee-Owner since 2017
GARNEY CONSTRUCTION *Advancing Water*
Cell: 239.270.4386
ADDRESS: 370 East Crown Point Rd, Winter Garden, FL 34787 GARNEY.COM

From: Morris Hill <MorrisH@woodruffandsons.com>
Sent: Friday, October 5, 2018 7:50 AM
To: Max Glynn <mglynn@garney.com>
Subject: FW: Fence Submittal

Max,

Please find attached the fencing submittal for West Villages Southwest Wastewater Reclamation Facility project.

Regards,

Morris Hill

WOODRUFF & SONS, INC.
PO Box 10127
Bradenton, FL 34282
T: 941.756.1871 | F: 941.755.1379 | C: 941.713.8956
Email: morrish@woodruffandsons.com
Web: www.woodruffandsons.com

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Civil Items #1 & 3

Woodruff & Sons, Inc.

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P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

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- ☐ Job No: _____
- ☐ Control No: _____
- ☐ Log Date: _____
- ☐ Invoice No: _____
- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - 100% Conformed Drawing Changes (Revision 1)	**Bid Number:**	2697-P0012r1
Project Location:		**Bid Date:**	9/27/2018

Thank you for the opportunity to quote.

Item #	Item Description	Total Price
1. Force Main		
~~1~~	~~16" MJ Plug Valve (Replaces 16" Gate Valve) *~~	~~$0.00~~
~~2~~	~~Deduct 16" MJ Gate Valve **~~	~~$0.00~~
~~3~~	~~24" MJ 22.5 Bend (1 EA)~~	~~$3,147.03~~
	Total Price for above 1. Force Main Items:	**$3,147.03**
6. Site Concrete		
1	Additional Concrete Sidewalk (Used Established Unit Price)	$3,725.25
2	Concrete Driveway · Odor Control · Septage Receiving Station	$14,469.40
3	Deduct Asphalt At Concrete Driveways · Odor Control · Septage Receiving Station · Solids Handling	($10,970.60)
~~4~~	~~Handicap Ramp~~	~~$8,510.67~~
	Total Price for above 6. Site Concrete Items:	**$15,734.72**
8. Chain Link Fence & Gate		
~~1~~	~~Gate Configuration Went Back To Original Design And "Round 2" Pricing~~	~~$0.00~~
	Total Price for above 8. Chain Link Fence & Gate Items:	**$0.00**
	Total Bid Price:	**$18,881.75**

Notes:

- * The price for 1 EA 16" MJ Plug Valve is already established within Proposal P18-012r7 West Villages (100% Civil Plans)
- ** Since the 16" Gate Valve is currently onsite it will be determined at a later date whether the owners wants it or if it will be sent back to the supplier.
- All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
- Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the proposal.
- Any item not specifically listed in this proposal is not included.
- This quotation excludes: rock removal, dewatering, and unsuitable soil.
- The items within this proposal are presented as the entire project, whereby an individual line item may not be removed or eliminated without prior approval.
- Woodruff & Sons, Inc. will not be responsible for identifying or handling any hazardous or contaminated material that may be encountered.
- Prices may be withdrawn by Woodruff & Sons, Inc. if not accepted within 45 days of receiving this proposal.

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton, FL 34203 (physical)
P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

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- ☐ Invoice No: _____
- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - 100% Conformed Drawing Changes (Revision 1)	**Bid Number:**	2697-P0012r1
Project Location:		**Bid Date:**	9/27/2018

Payment Terms:

Payment due within 30 days of date of invoice, regardless of when payment is made by Owner.

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. **Buyer:** _____ **Signature:** _____ **Date of Acceptance:** _____	**CONFIRMED:** **Woodruff & Sons, Inc. - Proposal** **Authorized Signature:** _____ **Estimator:** Matt Anderson (941) 756-1871 matta@woodruffandsons.com

Max Glynn

From: Jared Bloom <jared.bloom@schneider-electric.com>
Sent: Wednesday, September 26, 2018 12:25 PM
To: Matthew McCreary; Eddie Reed (EReed@PEDWPB.com)
Cc: Max Glynn; Robert Archer; Chris King
Subject: RE: 18-09-25 West Villages SWWWRF Construction Revision 6 - Electrical, 41284937 c/o 16
Attachments: BEC Construction Revision No. 6_North Port SWWWRF_092118.pdf

Matt – there are three changes that impact the price:

- Addition of a Size 1 starter to each MCC.
- Addition of a stainless steel enclosed breaker for each starter.
- 400/3p breaker for the Centrifuge reduced to 200/3.

Net price adder : $6,561

Regards,
Jared

Jared Bloom
Key Account Manager
Square D by Schneider Electric

O 407-712-1877 x21877
M 561-662-1508
E jared.bloom@schneider-electric.com

2300 Maitland Center Parkway
Suite 215
Maitland
United States

*Please consider the environment before printing this e-mail

From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Tuesday, September 25, 2018 7:18 AM
To: Jared Bloom <jared.bloom@schneider-electric.com>; Eddie Reed (EReed@PEDWPB.com) <EReed@PEDWPB.com>
Cc: Max Glynn <mglynn@garney.com>; Robert Archer <rarcher@garney.com>
Subject: 18-09-25 West Villages SWWWRF Construction Revision 6 - Electrical

[External email: Use caution with links and attachments]

Jared/Eddie,

Attached are West Villages Single Line revisions to the MCCs. Please review these changes and add to the MCCs.

Construction Revisions #6, Electrical, Instrumentation & Controls, and Process Mechanical – Headworks, Deep Injection and Monitoring Wells,

Issued on: September 25, 2018

All affected work shall be constructed as shown/described in the attached Construction Revision Documents.

Garney understands there to be no time or cost impacts associated with this direction. If there are real or potential time, safety, or cost impacts Garney shall be notified within (3) calendar days and full details must be provided within (15) calendar days. If no response is received by Garney before the times listed above will indicate, Garney understands that this will be a no cost or time change to the project.

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

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Electrical Items #1 & 3

Max Glynn

From: Jared Bloom <jared.bloom@schneider-electric.com>
Sent: Friday, October 12, 2018 3:15 PM
To: Matthew McCreary; Eddie Reed (EReed@PEDWPB.com)
Cc: Max Glynn; Chris King
Subject: RE: 18-10-08 West Villages Release - Submittal 16921-01 MCCs

Thanks Matt – two things from your email that will require change orders:

1) I've finalized the review of the MCC comments and have cleared up all items for release.
There will be no additional cost for adding surge to the starters. This was in agreement with Dameion @ Bailey Engineer.
However, when pricing the Monitoring Well Starter c/o it was done without a schematic. (I was advised to price a standard starter).
Per conversation with Dameion, a high temperature circuit is required that adds for each: 1 – timer relay, 1 – control relay, 1 - pilot light, 1 – pushbutton
Thus, an additional $530 will be required to the originally priced change order.

2) When we priced the deduct for the Blowers to change from VFD's to Reduced Voltage Soft Starters it was done so without a spec or schematic detail.
Reviewing the information provided will require an adder of $3,548 for the two the Blowers.
Most of the cost comes from having to include a Bypass Starter.
Note, these drawings are currently in submittal and will not reflect the information you just provided.

Please advise on approval of each so we can process accordingly.

The MCC is most critical so we can proceed with the release.

Regards,
Jared

Jared Bloom
Key Account Manager
Square D by Schneider Electric

D 407-712-1877 x21877
M 561-662-1508
E jared.bloom@schneider-electric.com

5300 Maitland Center Parkway
Suite 215
Maitland
United States

*Please consider the environment before printing this e-mail

From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Friday, October 12, 2018 10:49 AM
To: Jared Bloom <jared.bloom@schneider-electric.com>; Eddie Reed (EReed@PEDWPB.com) <EReed@PEDWPB.com>
Cc: Max Glynn <mglynn@garney.com>
Subject: RE: 18-10-08 West Villages Release - Submittal 16921-01 MCCs

[External email: Use caution with links and attachments]

Jared/Eddie,

Attached is Construction Revision 5 (Under Review Copy). These changes have been incorporated thru revision comments and are only awaiting formal response by the Owner. Please make the appropriate changes to the MCC.

Thank you,

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Matthew McCreary
Sent: Monday, October 8, 2018 10:06 AM
To: Eddie Reed (EReed@PEDWPB.com) <EReed@PEDWPB.com>; Jared Bloom (Jared.Bloom@Schneider-Electric.com) <Jared.Bloom@Schneider-Electric.com>
Cc: Max Glynn <mglynn@garney.com>; Robert Archer <rarcher@garney.com>; John Kenny <jkenny@garney.com>; Rico Arus <RArus@Garney.com>; Kris Robinson (Kris@RochaControls.com <kris@rochacontrols.com>; Danny Loveland (DannyJ@gilmoreelectric.com) <DannyJ@gilmoreelectric.com>; Russ G <Russg@gilmoreelectric.com>
Subject: 18-10-08 West Villages Release - Submittal 16921-01 MCCs

Eddie/Jared,

This is your formal release for the delivery of the MCCs associated with the West Villages SWWRF associated with the West Villages SWWRF on March 13, 2019. Unless Garney is notified otherwise, we will consider these dates achievable for the supplier/manufacturer and will schedule the project accordingly. Reference your Purchase Order Terms and Conditions for specifics regarding the notification of shipment and additional items. Please note: any unexpected delays on the suppliers'/manufacturers' end will result in additional costs. Please review the **Purchase Order Attachment "P," specifically Article 11, and the referenced specification section 01600 – Materials and Equipment. All requirements must be met prior to the shipment of equipment or materials** unless waived in writing by CMAR. The CMAR will reject all shipments, if the items requested in Attachment "P" and the project specifications are not met.

The returned submittal is noted as Approved as Noted. Please provide the required confirmation as requested by Garney and the Engineer to Garney in the next week. Make sure that all the pages of the submittal are reviewed as the Engineer made specific comments on individual pages within the submittal. The full submittal is too large to email, please download from the following location with the credentials listed.

https://team.garney.com/0547/Shared%20Documents/Submittals/Division%2016/16921-01%20-%20MCC
Username: ghc13\0547sub
Password: WVSWRF@0547JOB

Please begin the creation of the Preliminary Operation and Maintenance Manual for submission. This information will be required, per Attachment "P" in the next 30 days.

Subcontractors, please review the approved submittal for the required connections/installation per your subcontract.

Feel free to contact us if you have any questions or concerns. Thank you,

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

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Max Glynn

From: Danny Loveland <dannyj@gilmoreelectric.com>
Sent: Tuesday, October 9, 2018 11:14 AM
To: Matthew McCreary
Cc: Max Glynn; Russ G
Subject: RE: 18-09-25 West Villages SWWWRF Construction Revision 6

Matt

After further review of the added items and the credited items, this will be a no cost change.

Just a reminder to you that there are two additional racks that you will need to provide at the monitoring wells for the disconnect and j-box.

Electrical Racks: $1,791/ea with tax and freight.

Thank You,

Gilmore Electric
Danny J. Loveland - President
2875 Jupiter Park Dr. Suite 1800
Jupiter, Florida 33458
Office : (561)744-8008
Fax. (561)744-8009
Cell : (561) 718-7238
web: www.gilmoreelectric.com

From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Tuesday, October 02, 2018 6:40 AM
To: Danny Loveland
Cc: Max Glynn; Russ G
Subject: RE: 18-09-25 West Villages SWWWRF Construction Revision 6

Starters are with SqD. E-Stop will be provided by Grit Cup Vendor. You need to include additional conduit and wire for this. You should also have a credit as the change in wire and conduit size for the Centrifuge panel changes.

Thanks,

Matt

From: Danny Loveland <dannyj@gilmoreelectric.com>
Sent: Monday, October 1, 2018 5:57 PM
To: Matthew McCreary <mmccreary@garney.com>
Cc: Max Glynn <mglynn@garney.com>; Russ G <Russg@gilmoreelectric.com>
Subject: RE: 18-09-25 West Villages SWWWRF Construction Revision 6

Matt

There are added electrical items that may cause for an increase in costs. I will provide a price as quickly as I can. Do you want to handle the cost for the added starter in MCC-3 and MCC-4 with SQD for the purge pumps or do you want me to include this in my proposal? Also the E-stop that is being added to the GRCP, is this something I need to provide or is your panel provider handling this?

Thank You,

Gilmore Electric
Danny J. Loveland - President
2875 Jupiter Park Dr. Suite 1800
Jupiter, Florida 33458
Office : (561)744-8008
Fax. (561)744-8009
Cell : (561) 718-7238
web: www.gilmoreelectric.com

From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Tuesday, September 25, 2018 7:12 AM
To: Danny Loveland; Russ G; Kris Robinson (Kris@RochaControls.com; Raymond Rocha (rrocha@rochacontrols.com); Matt Anderson (MattA@WoodruffAndSons.com)
Cc: Max Glynn; Robert Archer; John Kenny; Ricardo Arus; Gilbert C. Cassidy; Sergio Mata; Steve Reichert
Subject: 18-09-25 West Villages SWWWRF Construction Revision 6

Construction Revisions #6, Electrical, Instrumentation & Controls, and Process Mechanical – Headworks, Deep Injection and Monitoring Wells,
Issued on: September 25, 2018

All affected work shall be constructed as shown/described in the attached Construction Revision Documents.

Garney understands there to be no time or cost impacts associated with this direction. If there are real or potential time, safety, or cost impacts Garney shall be notified within (3) calendar days and full details must be provided within (15) calendar days. If no response is received by Garney before the times listed above will indicate, Garney understands that this will be a no cost or time change to the project.

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
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Max Glynn

From: Ed Kuchtjak <Edward.Kuchtjak@denora.com>
Sent: Monday, October 8, 2018 4:49 PM
To: Matthew McCreary
Cc: Max Glynn; Dave Werner; Joel Trocki
Subject: RE: 22954 West Villages Field Instruments Submittal
Attachments: 22954- Bid Tab.pdf

Matt,

We have revised our data sheets to comply with your new requested vendors. The attached bid tabulation shows that there is a adder of $2,368.69 to switch instruments plus it will add a bit to the schedule for a full submittal. It seems unlikely that this should cause an issue with a requested delivery of January 16 but that may depend on the engineer's approval time.

Do you wish to proceed with using the new instrument vendors rather than the ones De Nora originally submitted on? If so, Please issue a change order for the difference of $2,368.69. De Nora is charging only the difference in instrument cost not the cost to re-do the engineering and submittal
Thanks

Ed Kuchtjak
Project Department Manager
WATER TECHNOLOGIES

direct: +1 412 494 4086
e-mail: edward.kuchtjak@denora.com
website: www.denora.com

From: Matthew McCreary <mmccreary@garney.com>
Sent: Thursday, September 27, 2018 7:42 PM
To: Ed Kuchtjak <Edward.Kuchtjak@denora.com>
Cc: Max Glynn <mglynn@garney.com>; Dave Werner <Dave.Werner@denora.com>
Subject: RE: 22954 West Villages Control Panel and Field Instruments Submittal

Ed,

Control Panels were submitted this evening for review by the Engineer. Please gather the cut sheets for the instruments as discussed, as these will need to be submitted in a separate submittal. A spec check on the instruments will need to be included with the field instrument submittal.

Thank you,

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Ed Kuchtjak <Edward.Kuchtjak@denora.com>
Sent: Thursday, September 27, 2018 8:32 AM
To: Matthew McCreary <mmccreary@garney.com>
Cc: Max Glynn <mglynn@garney.com>; Dave Werner <Dave.Werner@denora.com>
Subject: RE: 22954 West Villages Control Panel and Field Instruments Submittal

Matthew,

We revised our data sheets accordingly and went out to vendors for quotes. We expect them to be in within a few days. We have no problem with the revised vendors per se.

My issue is that the Contract Specifications seem to combine instruments and control panels together as a single item which is why De Nora submitted them together.

This request to change vendors on instruments is very late compared to similar changes in vendor requested for the pumps & blowers requested or investigated at about the time of the PO or the change of valve types. My concern about this is that the control panel submittal will be further delayed. I fully anticipate that there will be review comments on the control panels and if we do not resolve those issues sooner rather than later.

We anticipate a 12 week build time on the control panels after approval. Garney has requested a delivery of January 16. There are 16 weeks 6 days remaining until January 16 including some holiday time within the build period. The delivery is therefore achievable but not without a rapid review of the control panels with minimal comments.

If possible, Could Garney submit the control panels for review separately from the instruments? De Nora does not anticipate the delivery of instruments to be a problem, again, assuming the review cycle does not take very long.

Thanks

Ed Kuchtjak
Project Department Manager
WATER TECHNOLOGIES

direct: +1 412 494 4086
e-mail: edward.kuchtjak@denora.com
website: www.denora.com

From: Matthew McCreary <mmccreary@garney.com>
Sent: Wednesday, September 26, 2018 4:45 PM
To: Ed Kuchtjak <Edward.Kuchtjak@denora.com>
Cc: Max Glynn <mglynn@garney.com>
Subject: RE: 22954 West Villages Control Panel and Field Instruments Submittal

Ed,

Please provide a response on below. We would like to get this resolved prior to going into the submittal phase. Feel free to contact us if you have any questions or concerns.

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*

PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Matthew McCreary
Sent: Friday, September 21, 2018 2:11 PM
To: Ed Kuchtjak (edward.kuchtjak@denora.com) <edward.kuchtjak@denora.com>
Cc: Max Glynn <mglynn@garney.com>
Subject: RE: 22954 West Villages Control Panel and Field Instruments Submittal

Ed,

Just left you a voicemail. These instruments are different than what is being supplied by the Instrumentation sub. What is the possibility that DeNora would be able to supply the same manufacturers for the instruments as our sub? Below is a link and credentials to the submittal for field instruments from the instrumentation sub.

> https://team.garney.com/0547/Shared%20Documents/Submittals/Division%2013/13310-01%20Field%20Instruments
> Username: ghc13\0547sub
> Password: WVSWRF@0547JOB

Feel free to contact us if you have any questions or concerns. Thank you and have a great weekend.

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Kaitlyn Wall <kaitlyn.wall@denora.com>
Sent: Thursday, September 20, 2018 5:11 PM
To: Matthew McCreary <mmccreary@garney.com>
Cc: Ed Kuchtjak <Edward.Kuchtjak@denora.com>
Subject: 22954 West Villages Control Panel and Field Instruments Submittal

Matthew,

Below is a link to DNWT's submittal of the electrical components for 22954 West Villages. Please let me know if you have any trouble accessing the file.

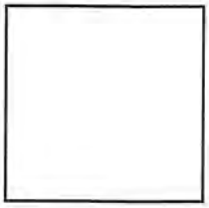
https://www.dropbox.com/s/9j4v4h9ermnjffn/22954%20West%20Villages_Control%20Panel%20and%20Field%20Instruments%20Submittal_REV0%209.20.18.pdf?dl=0

Kaitlyn Wall
Project Administrative Assistant
WATER TECHNOLOGIES

direct: +1 412 494 4078
email: kaitlyn.wall@denora.com
website: www.denora.com

Visit De Nora at:

SMM - International Maritime trade fair | 4–7 sept 2018 | Hamburg (Germany) | booth #A1.134
WEFTEC - International municipal exhibition | 1–3 October | New Orleans (USA) | booth #1729



De Nora Water Technologies, Inc. - Pittsburgh office
Suite 600, 1000 Cliff Mine Road
15275 - Pittsburgh - PA, USA

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BID EVALUATION FORM

PROJECT NO: 22954

EQUIP DESCRIP: Instrumentation

BUDGET: _____ **Requisition #** _____

REQ'D DELIVERY: _____ Days _____ Deliv Date

		Vendor --->	Proposal		Customer Request					
Item Description	Qty	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
Flowmeter	1	$ 3,518.40	$ 3,518.40	$ 5,255.25	$ 5,255.25	$ -	$ -	$ -	$ -
Level	4	$ 1,431.00	$ 5,724.00	$ 1,456.96	$ 5,827.84	$ -	$ -	$ -	$ -
Pressure Gauge	4	$ 362.50	$ 1,450.00	$ 515.00	$ 2,060.00	$ -	$ -	$ -	$ -
Float	4	$ 156.00	$ 624.00	$ 52.50	$ 210.00	$ -	$ -	$ -	$ -
Pressure Switch	1	$ 340.00	$ 340.00	$ 672.00	$ 672.00	$ -	$ -	$ -	$ -
		$ -	$ -	$ -	$ -

Electrical Item #5

Max Glynn

From: Ben Riggs <Ben.Riggs@mail.weir>
Sent: Wednesday, October 10, 2018 7:20 PM
To: Matthew McCreary
Cc: Joshua Jensen; Bryce Neilson; Katharine Bailey; Robert Haws; 'Austin Moore'; Mike Howard; Max Glynn; 'Gerald Mendez'
Subject: RE: [EXTERNAL] RE: West Villages - WEMCO Recirculation Nozzle Discussion // DW11772
Attachments: 18DW11772DA.PDF

Matt,

Thank you for your patience.

We can confirm that the two pumps without the recirculation nozzle assemblies will fit in the 6' diameter wet well. Attached a scale drawing showing this – please review it and let me know if you have any questions.

We can offer a deduct of $26,469.00 to remove the recirculation nozzle assemblies from our scope. This includes an offset of $6,414.00 to rework the motors so that they are supplied with 50' cables instead of 25' cables.

Please let me know if you have questions or need anything else.

Best regards,

Benjamin Riggs, P.E.
Manager, Project Engineering

Weir Specialty Pumps
440 West 800 South
Salt Lake City, Utah 84101

O 801 530 7892
M 801 231 2058

ben.riggs@mail.weir
www.global.weir | Twitter | Facebook | YouTube

From: Gerald Mendez [mailto:geraldtscjn@verizon.net]
Sent: Thursday, October 4, 2018 4:04 PM
To: Ben Riggs; 'Matthew McCreary'
Cc: Joshua Jensen; Bryce Neilson; Katharine Bailey; Robert Haws; 'Austin Moore'; Mike Howard; 'Max Glynn'
Subject: [EXTERNAL] RE: West Villages - WEMCO Recirculation Nozzle Discussion // DW11772

Ben,
Thanks for the quick reply.

Matt,
Please let me know if you would like a submersible mixer proposal for the 6' well?

Regards,

Gerald Mendez, E.I.
TSC-JACOBS
geraldtscjn@verizon.net
813-242-2660 phone
813-242-2597 fax

From: Ben Riggs [mailto:Ben.Riggs@mail.weir]
Sent: Thursday, October 4, 2018 1:39 PM
To: 'Matthew McCreary' <mmccreary@garney.com>
Cc: Joshua Jensen <Joshua.Jensen@mail.weir>; Bryce Neilson <Bryce.Neilson@mail.weir>; Katharine Bailey <Katherine.Bailey@mail.weir>; Robert Haws <Robert.Haws@mail.weir>; Austin Moore <Austin@TSCJacobs.com>; Mike Howard <Mike.Howard@mail.weir>; Max Glynn <mglynn@garney.com>; Gerald Mendez (geraldtscjn@verizon.net) <geraldtscjn@verizon.net>
Subject: RE: West Villages - WEMCO Recirculation Nozzle Discussion // DW11772

Hi Matt,

I'm sorry I missed your call. We'll go ahead and put together a deduct amount for removing the recirculation nozzle system. We'll have a look and make sure the pumps will fit in the 6' diameter wet well without the valves & nozzles – we believe they will. Once we've confirmed that, we'll provide a drawing showing the pumps in the well and calling out the spacing between them. We'll revise / rework the motors so that they have 50' cables. We should be able to get back to you with all of this on Monday.

Thanks & best regards,

Benjamin Riggs, P.E.
Manager, Project Engineering

Weir Specialty Pumps
440 West 800 South
Salt Lake City, Utah 84101

O 801 530 7892
M 801 231 2058

ben.riggs@mail.weir
www.global.weir | Twitter | Facebook | YouTube

From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Thursday, October 4, 2018 10:47 AM
To: Ben Riggs; Gerald Mendez (geraldtscjn@verizon.net)
Cc: Joshua Jensen; Bryce Neilson; Katharine Bailey; Robert Haws; Austin Moore; Mike Howard; Max Glynn
Subject: [EXTERNAL] RE: West Villages - WEMCO Recirculation Nozzle Discussion // DW11772

Ben/Gerald,

Discussions have been had with the Owner and Engineer over the recirculation nozzle, and they have elected to not have the recirculation nozzle installed. Please provide a drawing confirming that the currently released pumps will able to fit in the Scum Pump Station, without modifications, and provide a credit for the removal of the recirculation nozzle system from your scope.

As discussed in a previous message, please include the cost to have 50' cables attached to the pumps, in-lieu of the 25' cables from the submittal. This will need to be a breakout item on the credit requested above.

Feel free to contact us if you have any questions or concerns. Thank you,

Matt McCreary
Employee-Owner since 2014

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PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Ben Riggs <Ben.Riggs@mail.weir>
Sent: Friday, September 28, 2018 2:07 PM
To: Matthew McCreary <mmccreary@garney.com>
Cc: Joshua Jensen <Joshua.Jensen@mail.weir>; Bryce Neilson <Bryce.Neilson@mail.weir>; Katharine Bailey <Katherine.Bailey@mail.weir>; Robert Haws <Robert.Haws@mail.weir>; Gerald Mendez (geraldtscjn@verizon.net) <geraldtscjn@verizon.net>; Austin Moore <Austin@TSCJacobs.com>; Mike Howard <Mike.Howard@mail.weir>
Subject: RE: West Villages - WEMCO Recirculation Nozzle Discussion // DW11772

Matt,

Per our discussion yesterday, we have determined that the minimum wet well sizes to accommodate the equipment as currently designed, without interference, are as follows:

Round well: 10' diameter
Square well: 8' on a side

Please let me know if you have questions or need more information. We'll wait to hear from you before completing / submitting any revised drawings.

Best regards,

Benjamin Riggs, P.E.
Manager, Project Engineering

Weir Specialty Pumps
440 West 800 South
Salt Lake City, Utah 84101

O 801 530 7892
M 801 231 2058

ben.riggs@mail.weir
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-----Original Appointment-----
From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Wednesday, September 26, 2018 1:10 PM
To: Matthew McCreary; Joshua Jensen; Ben Riggs; Bryce Neilson; Katharine Bailey; Robert Haws
Subject: [EXTERNAL] West Villages - WEMCO Recirculation Nozzle Discussion
When: Thursday, September 27, 2018 3:00 PM-3:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Call: 816-759-3945 PIN:245#

Your meeting was found to be out of date and has been automatically updated.

Updated meeting details:

Start Time

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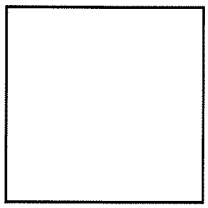
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Garney CONSTRUCTION

370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

December 27, 2018

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Re: Southwest WWRF
PCI-05 Influent Force Main and Deep Injection Well Changes

Dear Mr. Soule,

Garney hereby submits pricing for PCI-05 in the amount of $69,500.00 to modify the mechanical work associated with the Influent Force Main and Deep Injection Well. The Influent Force Main was modified based on the recommendations of the City of North Port to add a permanent bypass to Influent Flow Meter. The Deep Injection Well was modified by Kimley-Horn based on a revised design reviewed with Garney and Youngquist. A summary of the changes is noted below.

Influent Force Main Changes: $72,444

- Deduct (6) 16"-24" DI FLG pipe/fittings
- Deduct 40' of buried 24" piping
- Deduct (4) 16"-24" DI MJ fittings
- Deduct (2) 16" MJ Plug Valves
- Add (17) 16"-24" DI FLG pipe/fittings shown on revised drawing M-1.1A
- Add (1) 16" MJ fitting
- Add (3) 16" FLG Plug Valves
- Add (1) Air Release Valve
- Add (6) 316SS Pipe Supports
- Add 8" thick concrete slab under Flow Meter assembly
- Add (8) steel bollards
- Add painting

Deep Injection Well and Monitoring Well Changes: ($2,944.00)

- Deduct (1) 18" Cast Iron Swing Check Valve
- Deduct (4) 18" SS FLG pipe/fittings
- Deduct (1) 18" FLG Gate Valve
- Deduct (1) 18" Expansion Joint
- Deduct (10) Concrete Pipe Supports
- Deduct Grating at Monitoring Wells
- Add (1) 18" Stainless Steel Globe Check Valve
- Add (9) 18" DI FLG pipe/fittings
- Add (1) Pressure Gauge
- Add (2) Air Release Valves
- Add (7) 316SS Pipe Supports

The scope of work is only as specifically included in this proposal. Documentation supporting the above pricing is attached.

Sincerely,

Max Glynn
Senior Project Manager

Cc: Eng. File, SLF

GARNEY CONSTRUCTION PROPOSAL/ESTIMATE Garney Project 0547		Date		12/27/18
CONTRACT TITLE: Southwest Wastewater Reclamation Facility				
DESCRIPTION: Influent Flow Meter and DIW Changes				Garney Contract
PRIME CONTRACTOR'S WORK				Revisions/Comments
1. DIRECT MATERIALS		$47,949		From Breakdown Sheet Material Total
2. SALES TAX ON MATERIALS -- 7.0%	7.00%	$3,356		Sales Tax on Materials Only
3. SUBTOTAL - PRIME MATERIALS			$51,306	Total Material and Sales Tax
4. DIRECT LABOR		$13,524		Direct Labor Based on Contract Rates
5. SUBTOTAL - PRIME LABOR			$13,524	Sub Total Labor
6. EQUIPMENT		$2,109		Equipment From Breakdown Sheet Based on Contract Rates
7. SALES TAX ON RENTAL EQUIPMENT --				
8. SUBTOTAL - PRIME EQUIPMENT (Line 6 + Line7)			$2,109	Sub Total Euipment Cost
9. EQUIPMENT OWNERSHIP & OPERATING EXPENSE			$0	If Major equipment would be needed Large Crane etc.
10. SUBTOTAL LABOR AND EQUIPMENT (Lines 5 + Line 9			$15,633	Total Labor and Equipment Line #4 and Line #8
Prime Remarks:				
SUBCONTRACTOR'S WORK				Revisions/Comments
11. SUBTOTAL			$2,561	Sub-Contract cost from Sub Total on Breakdown Sheet
Sub's Remarks:				
SUMMARY				Revisions/Comments
12. PRIME CONTRACTOR'S SUBTOTAL (LINE 3+LINE 9			$ 69,500	Total Materials, Labor, Equipment, Subcontractor
13. FEE ON SUBTOTAL -- 0.0_% OF LINE 12	0.00%	$ -		Mark-up on Subtotal Line # 12
14. SUBTOTAL (ADD LINES 12, 13)			$ 69,500	Total Line #12, #13
15.				
16.				
17. TOTAL COST Line #17			$ 69,500	Total Cost For Scope of Work
NOTES:				
PRIME CONTRACTOR'S NAME: **GARNEY CONSTRUCTION**				
THE SCOPE OF THIS PROPOSAL IS ONLY AS LISTED HEREIN. ANY ADDITIONAL WORK REQUIRED, SHALL BE SUBJECT TO ADDITIONAL PRICING.				
SIGNATURE & TITLE OF PREPARER: _____ Max Glynn - Project Manager		DATE: 12/27/18		

GARNEY CONSTRUCTION
BREAKDOWN OF COST

GARNEY JOB NO. #547
Southwest Wastewater Reclamation Facility

DATE: 12/27/18
Garney Contract

ITEM No.	ITEMS OF WORK FOR Prime Contractor	QTY	UNIT	MATERIAL Unit Cost	MATERIAL Total Cost	LABOR Unit Cost	LABOR Total cost	R=1 O=0	EQUIPMENT Days	EQUIPMENT Rate	EQUIPMENT Total	SUB-CONTRACT
1	**Unit Price Work**											
2	**Subcontracts, Materials**											
A	**Material Adds - Influent Flow Meter**											
	VLV PLUG 16" FLG W/HW OP	3.0	EA	$ 3,661.00	$ 10,983.00							
	SUPP-316SS 16" X 3'-0" (CL) ADJ FLR	5.0	EA	$ 610.00	$ 3,050.00							
	SUPP-316SS 24" X 3'-0" (CL) ADJ FLG	1.0	EA	$ 1,620.00	$ 1,620.00							
	DUCTILE IRON FLANGE COUPLING ADAPTER 16"	1.0	EA	$ 658.01	$ 658.01							
	VLV COMBO AIR RELIEF VALVE 02" THD	1.0	EA	$ 965.00	$ 965.00							
	DIP P401 24" X 14'-0" SPOOL - FLG X PE	1.0	EA	$ 3,140.89	$ 3,140.89							
	DIP P401 24" X 17'-0" SPOOL - FLG X FLG	1.0	EA	$ 4,243.20	$ 4,243.20							
	DIP P401 24" FLG 45 BEND w/ 1" TAP	1.0	EA	$ 2,114.00	$ 2,114.00							
	DIP P401 24" X 16" FLG RED TEE	2.0	EA	$ 2,569.60	$ 5,139.20							
	DIP P401 24" FLG 90 BEND	1.0	EA	$ 2,564.27	$ 2,564.27							
	DIP P401 24" X 16" FLG ECC REDUCER	2.0	EA	$ 1,908.98	$ 3,817.96							
	DIP P401 24" FLG BASE 90 BEND	1.0	EA	$ 3,351.47	$ 3,351.47							
	DIP P401 16" FLG 90 BEND	2.0	EA	$ 1,083.73	$ 2,167.46							
	DIP P401 16" X 02'-0" SPOOL - FLG X FLG	2.0	EA	$ 683.40	$ 1,366.80							
	DIP P401 16" X 13'-3" SPOOL - FLG X FLG	1.0	EA	$ 2,117.07	$ 2,117.07							
	DIP P401 16" X 06'-9" SPOOL - FLG X FLG	2.0	EA	$ 1,306.73	$ 2,613.46							
	DIP P401 16" X 04-0" SPOOL - FLG X PE	1.0	EA	$ 719.67	$ 719.67							
	DIP P401 WALL PIPE - FLG x WC x PE (TFS) 24" x 2'-0"	1.0	EA	$ 1,254.60	$ 1,254.60							
	DIP P401 24" MJ 22.5 BEND	1.0	EA		$ -							$ 3,147
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 16"	14.0	EA	$ 37.07	$ 518.98							
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24"	9.0	EA	$ 101.74	$ 915.66							
	FLANGE GASKET, 1/8" FF EPDM, 16"	14.0	EA	$ 13.99	$ 195.86							
	FLANGE GASKET, 1/8" FF EPDM, 24"	9.0	EA	$ 21.20	$ 190.80							
	PAINT PIPING	1.0	LS									$ 5,923
B	**Material Deducts - Influent Flow Meter**											
	SUPP-HDG 24" VERTICAL PIPE SUPPORT	(1.0)	EA	$ 900.00	$ (900.00)							
	DIP P401 24" X 11'-0" SPOOL - FLG X FLG	(1.0)	EA	$ 2,660.00	$ (2,660.00)							
	DIP P401 24" X 16" FLG CONC REDUCER	(1.0)	EA	$ 1,303.56	$ (1,303.56)							
	DIP P401 WALL PIPE - FLG x WC x FLG (TFS) 24" x 1'-6"	(1.0)	EA	$ 1,583.73	$ (1,583.73)							
	DIP P401 16" X 05'-6" SPOOL - FLG X FLG	(1.0)	EA	$ 988.00	$ (988.00)							
	DIP P401 16" X 10'-0" SPOOL - FLG X PE	(1.0)	EA	$ 1,295.00	$ (1,295.00)							
	DIP P401 16" MJ 90 BEND	(1.0)	EA	$ 631.24	$ (631.24)							
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 16"	(3.0)	EA	$ 37.07	$ (111.21)							
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24"	(2.0)	EA	$ 101.74	$ (203.48)							
	FLANGE GASKET, 1/8" FF RED RUBBER, 16"	(3.0)	EA	$ 13.99	$ (41.97)							
	FLANGE GASKET, 1/8" FF RED RUBBER, 24"	(2.0)	EA	$ 21.20	$ (42.40)							
	24" C-900 DR-25 PVC FORCE MAIN	(40.0)	LF		$ -							$ (668)
	DIP P401 24" X 16" MJ RED TEE & REDUCER	(1.0)	EA		$ -							$ (428)
	VLV PLUG 16" MJ W/NUT OP	(2.0)	EA		$ -							$ (5,374)
	PAINT PIPING	(1.0)	LS									$ (283)
C	**Material Adds - Influent Flow Meter Slab & Bollards**											
	FORMWORK	77.0	SF	$ 2.50	$ 192.50							
	CONCRETE - 3000 PSI	11.0	CY	$ 110.00	$ 1,210.00							
	REBAR - #5's @ 12" EA WAY	0.5	TN	$ 950.00	$ 475.00							
	REBAR - INSTALLATION	0.5	TN		$ -							$ 244
	BOLLARDS	8.0	EA	$ 450.00	$ 3,600.00							
D	**Material Adds - DIW and Monitoring Wells**											
	VLV GLOBE CHECK VALVE-FLG 18"	1.0	EA	$ 21,500.00	$ 21,500.00							
	DIP CML 18" X 02'-3" SPOOL - FLG X FLG	1.0	EA	$ 753.67	$ 753.67							

BREAKDOWN OF COST — Southwest Wastewater Reclamation Facility — Garney Contract

ITEM	ITEMS OF WORK FOR	QTY	UNIT	MATERIAL		LABOR		R=1	EQUIPMENT			SUB-
No.	Prime Contractor			Unit Cost	Total Cost	Unit Cost	Total cost	O=0	Days	Rate	Total	CONTRACT
	DIP CML 18" X 11'-0" SPOOL - FLG X FLG	1.0	EA	$ 1,569.29	$ 1,569.29							
	DIP CML 18" X 03'-6" SPOOL - FLG X FLG	1.0	EA	$ 849.62	$ 849.62							
	DIP CML 04" X 0'-9" SPOOL - FLG X FLG	1.0	EA	$ 97.84	$ 97.84							
	DIP CML 18" X 06" FLG RED TEE	1.0	EA	$ 684.09	$ 684.09							
	DIP CML 06" X 04" FLG CONC REDUCER	1.0	EA	$ 62.22	$ 62.22							
	DIP CML 18" FLG 90 BEND w/ 1" TAP	2.0	EA	$ 810.18	$ 1,620.36							
	FABD SSTL 18" PIPE	1.0	LS	$ 14,221.00	$ 14,221.00							
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	1.0	EA	$ 17.88	$ 17.88							
	FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 18"	2.0	EA	$ 62.07	$ 124.14							
	FLANGE GASKET, 1/8" FF EPDM, 12"	1.0	EA	$ 9.30	$ 9.30							
	FLANGE GASKET, 1/8" FF EPDM, 18"	2.0	EA	$ 13.99	$ 27.98							
	VLV COMBO AIR RELIEF VALVE 02" THD	2.0	EA	$ 965.00	$ 1,930.00							
	INSTR-PRESSURE GAUGE w/ VALVE & NIPPLES	1.0	EA	$ 440.75	$ 440.75							
	SUPP-316SS 18" X 3'-0" (CL) ADJ FLR W/ U-BOLT	7.0	EA	$ 1,275.00	$ 8,925.00							
	PAINT PIPING	1.0	LS									Incl.
E	**Material Deducts - DIW and Monitoring Wells**											
	VLV SWING CHECK VALVE-FLG 18"	(1.0)	EA	$ 7,325.00	$ (7,325.00)							
	VLV GATE VALVE 18" FLG W/HW OP	(1.0)	EA	$ 7,402.00	$ (7,402.00)							
	FABD SSTL 18" PIPE	(1.0)	LS	$ 24,177.00	$ (24,177.00)							
	EXPANSION JOINT 18" FLG - BELLOWS (304 SS)	(1.0)	EA	$ 3,378.57	$ (3,378.57)							
	VLV COMBO AIR RELIEF VALVE 04" FLG	(1.0)	EA	$ 1,958.89	$ (1,958.89)							
	CONCRETE PIPE SUPPORTS	(10.0)	EA	$ 512.00	$ (5,120.00)							
	SUPP-HDG 18" PIPE STRAP	(10.0)	EA	$ 147.00	$ (1,470.00)							
	SUPP-HDG 18" X 2'-6" (CL) ADJ FLR W/ U-BOLT	(1.0)	EA	$ 920.00	$ (920.00)							
	VLV GATE VALVE 06" FLG W/HW OP	(2.0)	EA	$ 497.00	$ (994.00)							
	FLG BOLT & NUT SET, REG HEAD, 316SS, 06"	(10.0)	EA	$ 37.79	$ (377.90)							
	FLANGE GASKET, 1/8" FF EPDM, 06"	(10.0)	EA	$ 3.29	$ (32.90)							
	MISC. METALS - GRATING	(1.0)	LS	$ 1,625.00	$ (1,625.00)							
3	**Contractor - Labor/Crews & Equipment**											
A	Install Influent Flow Meter Piping (Add)	64.0	Crew Hrs			$ 216.25	$ 13,840.00	1	4.0	$1,125.00	$ 4,500.00	
B	Install Influent Flow Meter Piping (Deduct)	(31.0)	Crew Hrs			$ 216.25	$ (6,703.75)	1	-1.9	$1,125.00	$(2,179.69)	
C	Form and Pour Influent Flow Meter Slab (Add)	16.0	Crew Hrs			$ 251.29	$ 4,020.64					
C	Install Influent Flow Meter Bollards (Add)	12.0	Crew Hrs			$ 251.29	$ 3,015.48					
D	Install DIW & Monitoring Well Pipe (Add)	36.0	Crew Hrs			$ 216.25	$ 7,785.00	1	2.3	$1,125.00	$ 2,531.25	
E	Install DIW & Monitoring Well Pipe (Deduct)	(39.0)	Crew Hrs			$ 216.25	$ (8,433.75)	1	-2.4	$1,125.00	$(2,742.19)	
4	**Field Costs**											
	a. Mobilize, Set-up Tool Trailer & Demob.	0.0	LS	$ -	$ -	$ -	$ -		0.0	$ -	$ -	
	b. Daily Clean-up & Dumpsters	0.0	LS	$ -	$ -	$ -	$ -		0.0	$ -	$ -	
	c. Safety (1.5% Labor)	1.0	LS	$ 202.85	$ 202.85	$ -	$ -		0.0	$ -	$ -	
	d. Small Tools & Expendables (2% Labor)	1.0	LS	$ 270.47	$ 270.47	$ -	$ -		0.0	$ -	$ -	
	e. Project Superintendent	0.0	HR	$ -	$ -	$ 116.71	$ -		0.0	$ -	$ -	
	f. Project Vehicles (includes fuel , ins, etc.)	0.0	DY	$ -	$ -	$ -	$ -	0	0.0	$ 160.00	$ -	
	g. Project Manager	0.0	HR	$ -	$ -	$ 145.89	$ -	0	0.0	$ 160.00	$ -	
	h. Field Engineer	0.0	HR	$ -	$ -	$ 73.79	$ -	0	0.0	$ 160.00	$ -	
	i. Travel lodging expense (hotel rooms, fuel & per diem)	0.0	DY	$ 375.00	$ -	$ -	$ -		0.0	$ -	$ -	
5	**Engineering Time / Asbuilts**	0.00	HR									
	PRIME CONTRACTOR - TOTALS				$ 47,949		$ 13,524				$ 2,109	$ 2,561

Max Glynn

From: Baldwin, Charlotte <Charlotte.Baldwin@coreandmain.com>
Sent: Thursday, October 25, 2018 4:21 PM
To: Matthew McCreary; Oliver, Christopher
Cc: Max Glynn
Subject: RE: 18-10-09 West Villages - Headworks and DIW Piping Reconfiguration - RFQ
Attachments: Email Garney - West Villages 18-10-09 Hdwks-DIW Piping Reconfig - CM.XLSX

Revised – complete

Charlotte Baldwin
SE REGION Treatment Plant Sales
CORE & MAIN

813-363-1296 CELL
charlotte.baldwin@coreandmain.com

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From: Baldwin, Charlotte
Sent: Thursday, October 25, 2018 3:25 PM
To: 'Matthew McCreary' <mmccreary@garney.com>; Oliver, Christopher <christopher.oliver@coreandmain.com>
Cc: Max Glynn <mglynn@garney.com>
Subject: RE: 18-10-09 West Villages - Headworks and DIW Piping Reconfiguration - RFQ

I'm missing the hardware but should have soon… sorry that this was over looked…. the numbers have the current tariff increase included -

Charlotte Baldwin
SE REGION Treatment Plant Sales
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From: Matthew McCreary [mailto:mmccreary@garney.com]
Sent: Wednesday, October 24, 2018 10:47 AM
To: Baldwin, Charlotte <Charlotte.Baldwin@coreandmain.com>; Oliver, Christopher <christopher.oliver@coreandmain.com>
Cc: Max Glynn <mglynn@garney.com>
Subject: RE: 18-10-09 West Villages - Headworks and DIW Piping Reconfiguration - RFQ

Charlotte/Chris,

Looking for a status update on the return of these items to be priced. Please have the returned quotation before the close of business on Thursday, as this quotation is currently overdue.

Feel free to contact us if you have any questions or concerns. Thank you,

Matt McCreary
Employee-Owner since 2014

GARNEY CONSTRUCTION *Advancing Water*
PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Matthew McCreary
Sent: Thursday, October 11, 2018 7:53 AM
To: Charlotte Baldwin <Charlotte.Baldwin@coreandmain.com>; 'Oliver, Christopher' <christopher.oliver@coreandmain.com>
Subject: RE: 18-10-09 West Villages - Headworks and DIW Piping Reconfiguration - RFQ

Charlotte,

As discussed yesterday, some items on this listing are in your scope with us already, please provide a quotation for the items that you can provide that are not already in your scope. Please note that large diameter valves are in another supplier's scope, so you do not have to provide a quotation on these.

Thanks,

Matt McCreary
Employee-Owner since 2014

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PH: 407.395.7576 FAX: 407.395.7577 MOBILE: 330.801.3553
ADDRESS: 8898 S. Tamiami Trail, Venice, FL 34293 GARNEY.COM

From: Matthew McCreary
Sent: Tuesday, October 9, 2018 8:27 AM
To: Charlotte Baldwin <Charlotte.Baldwin@coreandmain.com>; Oliver, Christopher <christopher.oliver@coreandmain.com>
Subject: 18-10-09 West Villages - Headworks and DIW Piping Reconfiguration - RFQ

Charlotte/Chris,

Attached is an MSExcel listing that we need to have priced up. Please provide a quotation for any and all items that you are able to provide before the close of business on Friday (10/12/18). If you need specifications, they can be accessed from the following link and credentials:

https://team.garney.com/0547/Shared%20Documents
Username: ghc13\0547sub
Password: WVSWRF@0547JOB

Feel free to contact us if you have any questions or concerns. Thank you,

Matt McCreary
Employee-Owner since 2014

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Influent Force Main Change				
Item	**QTY**	**UM**	**Unit Price**	**Total Price**
DIP, P401, PIPE, 24" X 14'-0" FLGxPE,	1	EA	3,140.89	3,140.89
DIP, P401, PIPE, 24" 17'-0" FLGxFLG	1	EA	4,243.20	4,243.20
DIP, P401, FTN, 24", 45, FLG, W/1" TAP	1	EA	2,114.00	2,114.00
DIP, P401, FTN, 24x16", FLG, RED. TEE	2	EA	2,569.60	5,139.20
DIP, P401, FTN, 24", 90, FLG	1	EA	2,564.27	2,564.27
DIP, P401, FTN, 24"x16", FLG, ECC. RED	2	EA	1,908.98	3,817.96
DIP, P401, FTN, 24", FLG, BASE 90	1	EA	3,351.47	3,351.47
DIP, P401, FTN, 16", FLG, 90	2	EA	1,083.73	2,167.46
DIP, P401, PIPE, 16" X 2'-0" FLGxFLG	2	EA	683.40	1,366.80
DIP, P401, PIPE, 16" X 13'-3" FLGxFLG	1	EA	2,117.07	2,117.07
DIP, P401, PIPE, 16" X 6'-9" FLGxFLG	2	EA	1,306.73	2,613.46
DIP, P401, PIPE, 16" 4'-0" FLGxPE	1	EA	719.67	719.67
DIP, P401, WALL PIPE, 24" X 2'-0" FLGxPE WC@1.25' FROM FLG	1	EA	1,254.60	1,254.60
Deep Injection Well Change				
DIP, CMT, PIPE, 18" X 2'-3" FLGxFLG	1	EA	753.67	753.67
DIP, CMT, PIPE, 18" X 11'-0" FLGxFLG	1	EA	1,569.29	1,569.29
DIP, CMT, PIPE, 18" X 3'-6" FLGxFLG	1	EA	849.62	849.62
DIP, CMT, PIPE, 4" X 0'-9" FLGxFLG	1	EA	97.84	97.84
DIP, CMT, FTN, 18"x6", RED. TEE, FLG	1	EA	684.09	684.09
DIP, CMT, FTN, 6"x4", CONC. RED, FLG	1	EA	62.22	62.22
DIP, CMT, FTN, 18", 90, FLG, W/ 1" TAP	2	EA	810.18	1,620.36

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D.I.P. COSTS FOR DELETED WORK

ATTACHMENT CORE AND MAIN SWRF

CORE & MAIN
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charlotte.baldwin@hdsupply.com

15110
DUCTILE IRON PIPE

	QTY	UM	LIST PRICE	MTRL TOTAL
DIP P401 08" X 06" FLG RED 90 SR BEND		EA		
DIP P401 08" X 11'-6" SPOOL - FLG X FLG		EA		
DIP P401 10" FLG 90 BEND		EA		
DIP P401 10" X 01'-0" SPOOL - FLG X FLG		EA		
DIP P401 10" X 04'-6" SPOOL - FLG X FLG (W/ 3/4" TAP)		EA		
DIP P401 12" FLG 90 BEND		EA		
DIP P401 12" X 02'-0" SPOOL - FLG X FLG		EA		
DIP P401 12" X 03'-0" SPOOL - FLG X FLG		EA		
DIP P401 12" X 03'-6" SPOOL - FLG X FLG		EA		
DIP P401 12" X 05'-6" SPOOL - FLG X FLG		EA		
DIP P401 12" X 05'-6" SPOOL - FLG X FLG		EA		
DIP P401 12" X 08" FLG CONC REDUCER		EA		
DIP P401 12" X 08" FLG RED TEE		EA		
DIP P401 12" X 10'-0" SPOOL - FLG X FLG		EA		
DIP P401 12" X 19'-6" SPOOL - FLG X FLG		EA		
DIP P401 16" BLIND FLANGE (W/ 2" TAP)		EA		
DIP P401 16" FLG 90 BEND		EA		
DIP P401 16" FLG 90 BEND		EA		
DIP P401 16" FLG FLARE (18"X16" FLUTED END)		EA		
DIP P401 16" FLG FLARE (18"X16" FLUTED END)		EA		
DIP P401 16" FLG TEE		EA		
DIP P401 16" FLG TEE		EA		
DIP P401 16" X 02'-0" SPOOL - FLG X FLG		EA		
DIP P401 16" X 04'-0" SPOOL - FLG X FLG		EA		
DIP P401 16" X 04'-6" SPOOL - FLG X FLG		EA		
DIP P401 16" X 05'-6" SPOOL - FLG X FLG	2.0	EA	988.00	1,976
DIP P401 16" X 07'-0" SPOOL - FLG X FLG		EA		
DIP P401 16" X 12" FLG ECC REDUCER		EA		
DIP P401 16" X 13'-6" SPOOL - FLG X FLG		EA		
DIP P401 24" FLG 45 BEND		EA		
DIP P401 24" X 04'-0" SPOOL - FLG X FLG		EA		
DIP P401 24" X 11'-0" SPOOL - FLG X FLG	1.0	EA	2,660.00	2,660
DIP P401 24" X 16" FLG CONC RED	1.0	EA	1,303.56	1,304
DIP P401 30" X 17'-0" SPOOL - FLG X FLG		EA		
DIP P401 WALL PIPE - FLG x WC x FLG (TFS) 24" x 1'-6"	1.0	EA	1,583.73	1,584
DIP P401 WALL PIPE - FLG x WC x FLG (TFS) 30" x 2'-0"		EA		
DIP CML 04" FLG 90 BEND		EA		
DIP CML 04" MJ 45 BEND		EA		
DIP CML 04" MJ 45 BEND		EA		
DIP CML 04" MJ 45 BEND		EA		
DIP CML 04" MJ 45 BEND		EA		
DIP CML 04" MJ 90 BEND		EA		
DIP CML 04" MJ 90 BEND		EA		
DIP CML 04" MJ 90 BEND		EA		
DIP CML 04" MJ 90 BEND		EA		
DIP CML 04" MJ PLUG W/ 2" TAP		EA		
DIP CML 04" MJ TEE		EA		
DIP CML 04" PIPE-RESTRAINED JOINT		LF		
DIP CML 04" X 08'-0" SPOOL - FLG X PE		EA		
DIP CML 04" X 12'-0" SPOOL - FLG X PE		EA		
DIP CML 06" MJ 45 BEND		EA		

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ATTACHMENT CORE AND MAIN SWRF

CORE & MAIN
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charlotte.baldwin@hdsupply.com

15110
DUCTILE IRON PIPE

	QTY	UM	LIST PRICE	MTRL TOTAL
DIP P401 08" MJ CAP		EA		
DIP P401 08" MJ PLUG		EA		
DIP P401 08" MJ PLUG		EA		
DIP P401 08" MJ TEE		EA		
DIP P401 08" MJ TEE		EA		
DIP P401 08" PIPE-RESTRAINED JOINT		LF		
DIP P401 08" X 06" MJ RED TEE		EA		
DIP P401 08" X 08'-0" SPOOL - FLG X PE		EA		
DIP P401 08" X 08'-6" SPOOL - FLG X PE		EA		
DIP P401 10" MJ 90 BEND		EA		
DIP P401 10" PIPE-RESTRAINED JOINT		LF		
DIP P401 10" X 07'-0" SPOOL - FLG X PE		EA		
DIP P401 12" MJ 22.5 BEND		EA		
DIP P401 12" MJ 45 BEND		EA		
DIP P401 12" MJ 45 BEND		EA		
DIP P401 12" MJ 90 BEND		EA		
DIP P401 12" MJ 90 BEND		EA		
DIP P401 12" MJ 90 BEND		EA		
DIP P401 12" MJ CAP		EA		
DIP P401 12" PIPE-RESTRAINED JOINT		LF		
DIP P401 12" X 06'-0" SPOOL - FLG X PE		EA		
DIP P401 12" X 08" MJ RED TEE		EA		
DIP P401 12" X 09'-0" SPOOL - FLG X PE		EA		
DIP P401 12" X 12'-0" SPOOL - FLG X PE		EA		
DIP P401 16" MJ 90 BEND		EA		
DIP P401 16" MJ 90 BEND	1.0	EA	631.24	631
DIP P401 16" MJ 90 BEND		EA		
DIP P401 16" MJ PLUG		EA		
DIP P401 16" MJ TEE		EA		
DIP P401 16" PIPE-RESTRAINED JOINT		LF		
DIP P401 16" X 06'-0" SPOOL - FLG X PE		EA		
DIP P401 16" X 08" MJ RED TEE		EA		
DIP P401 16" X 10" MJ RED TEE		EA		
DIP P401 16" X 10" MJ REDUCER		EA		
DIP P401 16" X 10'-0" SPOOL - FLG X PE	1.0	EA	1,295.00	1,295
DIP P401 WALL PIPE - FLG x WC x PE (TFS) 12" x 4'-0"		EA		
DIP P401 WALL PIPE - FLG x WC x PE (TFS) 16" x 4'-0"		EA		

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15211
SMALL DIA VALVES

	QTY	UM	LIST PRICE	MTRL TOTAL
VLV BRZ THRD-BALL VALVE 00-1/2" W/LEVER OP		EA		
VLV BRZ THRD-BALL VALVE 01" W/LEVER OP		EA		
VLV BRZ THRD-BALL VALVE 02" W/LEVER OP		EA		
VLV COMBO AIR RELIEF VALVE 02" THD		EA		
VLV COMBO AIR RELIEF VALVE 04" FLG (VALMATIC 4-INCH #104SS WELL SERVICE AIR VALVE OR APPROVED EQUAL)	1.0	EA	1,958.89	1,959
VLV SS316 THRD-BALL VALVE 00-1/2"		EA		
VLV SS316 THRD-BALL VALVE 00-3/4"		EA		
VLV COMBO AIR RELIEF VALVE 02" THD		EA		
VLV BRZ THRD-BALL VALVE 02" W/LEVER OP		EA		
VLV BRZ THRD-BALL VALVE 04" W/LEVER OP		EA		
VLV BRZ THRD-BALL VALVE 04" W/LEVER OP		EA		
VLV COMBO AIR RELIEF VALVE 04" FLG (VALMATIC 4-INCH #104SS WELL SERVICE AIR VALVE OR APPROVED EQUAL)		EA		
VLV SS316 THRD-BALL VALVE 01"		EA		
VLV SS316 THRD-BALL VALVE 02"		EA		
VLV SS316 THRD-BALL VALVE 02"		EA		
VLV SS316 THRD-BALL VALVE 02"		EA		
VLV SS316 THRD-NEEDLE VALVE 00-1/2" (WM POWELL FIGURE 680, CRANE FIGURE 88, OR EQUAL)		EA		
VLV CORP STOP 02"		EA		
FREIGHT		*****		
FREIGHT		LS		

Garney CONSTRUCTION
ADVANCING WATER

ATTACHMENT CORE AND MAIN SWRF

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charlotte.baldwin@hdsupply.com

15215 BNG KITS

	QTY	UM	LIST PRICE	MTRL TOTAL
FLANGE GASKET, 1/8" FF EPDM, 01-1/2"		EA		
FLANGE GASKET, 1/8" FF EPDM, 01-1/2"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 03"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 06"		EA		
FLANGE GASKET, 1/8" FF EPDM, 06"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 04"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 06"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 06"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 06"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 08"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 10"		EA		
FLANGE GASKET, 1/8" FF FLUOROELASTOMER (FKM) 10"		EA		
FLANGE GASKET, 1/8" FF EPDM, 01-1/2"		EA		
FLANGE GASKET, 1/8" FF EPDM, 01-1/2"		EA		
FLANGE GASKET, 1/8" FF EPDM, 01-1/2"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 02"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 04"		EA		
FLANGE GASKET, 1/8" FF EPDM, 05"		EA		
FLANGE GASKET, 1/8" FF EPDM, 06"	173.0	EA	3.29	569
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 08"		EA		
FLANGE GASKET, 1/8" FF EPDM, 10"		EA		
FLANGE GASKET, 1/8" FF EPDM, 12"	3.0	EA	9.30	28
FLANGE GASKET, 1/8" FF EPDM, 12"	5.0	EA	9.30	47
FLANGE GASKET, 1/8" FF EPDM, 12"	12.0	EA	9.30	112
FLANGE GASKET, 1/8" FF EPDM, 12"	12.0	EA	9.30	112
FLANGE GASKET, 1/8" FF EPDM, 12"	2.0	EA	9.30	19
FLANGE GASKET, 1/8" FF EPDM, 12"	5.0	EA	9.30	47
FLANGE GASKET, 1/8" FF EPDM, 16"	3.0	EA	13.99	42
FLANGE GASKET, 1/8" FF EPDM, 16"	1.0	EA	13.99	14
FLANGE GASKET, 1/8" FF EPDM, 16"	8.0	EA	13.99	112
FLANGE GASKET, 1/8" FF EPDM, 16"	6.0	EA	13.99	84
FLANGE GASKET, 1/8" FF EPDM, 16"	9.0	EA	13.99	126
FLANGE GASKET, 1/8" FF EPDM, 18"	10.0	EA	13.99	140
FLANGE GASKET, 1/8" FF EPDM, 18"	4.0	EA	14.28	57
FLANGE GASKET, 1/8" FF EPDM, 18"	18.0	EA	14.28	257
FLANGE GASKET, 1/8" FF EPDM, 18"	3.0	EA	14.28	43
FLANGE GASKET, 1/8" FF EPDM, 18"	8.0	EA	14.28	114
FLANGE GASKET, 1/8" FF EPDM, 24"	2.0	EA	21.20	42
FLANGE GASKET, 1/8" FF EPDM, 24"	1.0	EA	21.20	21
FLANGE GASKET, 1/8" FF EPDM, 24"	3.0	EA	21.20	64
FLANGE GASKET, 1/8" FF EPDM, 30"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 02"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 02"		EA		

Garney CONSTRUCTION
ADVANCING WATER

ATTACHMENT CORE AND MAIN SWRF

CORE & MAIN
FORMAT SHEET 3.1296
charlotte.baldwin@hdsupply.com

15215
BNG KITS

	QTY	UM	LIST PRICE	MTRL TOTAL
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 04"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 05"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	3.0	EA	6.76	20
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	12.0	EA	6.76	81
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	2.0	EA	6.76	14
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	7.0	EA	6.76	47
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	5.0	EA	6.76	34
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	11.0	EA	6.76	74
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	18.0	EA	6.76	122
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	12.0	EA	6.76	81
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	9.0	EA	6.76	61
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	10.0	EA	6.76	68
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	14.0	EA	6.76	95
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	24.0	EA	6.76	162
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	10.0	EA	6.76	68
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	17.0	EA	6.76	115
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06"	15.0	EA	6.76	101
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 06" (STUD KIT)		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 08" (STUD KIT)		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 10"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	3.0	EA	17.88	54
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	5.0	EA	17.88	89
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	12.0	EA	17.88	215
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	12.0	EA	17.88	215
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 12"	5.0	EA	17.88	89
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 16"	3.0	EA	37.07	111
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 16"	6.0	EA	37.07	222
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 16"	9.0	EA	37.07	334
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 18"	4.0	EA	62.07	248
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 18"	4.0	EA	62.07	248
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 18"	8.0	EA	62.07	497
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24"	1.0	EA	101.74	102
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24"	1.0	EA	101.74	102
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24"	3.0	EA	101.74	305
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 24" (STUD KIT)		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 30"		EA		
FLG BOLT & NUT SET, A307 REG HEAD, HD GALV, 30" (STUD KIT)		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01-1/2"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01-1/2"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01-1/2"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01-1/2"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 01-1/2"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 02"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 03"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 04"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 04"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 04"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 04"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 06"		EA		
FLG BOLT & NUT SET, REG HEAD, 316SS, 06"	6.0	EA	37.79	227
FLG BOLT & NUT SET, REG HEAD, 316SS, 06"	3.0	EA	37.79	113
FLG BOLT & NUT SET, REG HEAD, 316SS, 06"	5.0	EA	37.79	189

Garney CONSTRUCTION
ADVANCING WATER

ATTACHMENT CORE AND MAIN SWRF

CORE & MAIN
FORMAT SHEET 3.1296
charlotte.baldwin@hdsupply.com

15220
MEGALUGS, FCA's, CPLG's

	QTY	UM	LIST PRICE	MTRL TOTAL
DISMANTLING JOINT 04" FLANGED		EA		
DISMANTLING JOINT 06" FLANGED		EA		
DISMANTLING JOINT 06" FLANGED		EA		
DISMANTLING JOINT 08" FLANGED		EA		
DISMANTLING JOINT 10" FLANGED		EA		
DISMANTLING JOINT 12" FLANGED		EA		
DISMANTLING JOINT 16" FLANGED		EA		
DUCTILE IRON FLANGE COUPLING ADAPTER 04"		EA		
EXPANSION JOINT 01-1/2" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS (ENHANCED BELLOWS TRANSITION FITTING)		EA		
EXPANSION JOINT 2" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS (ENHANCED BELLOWS TRANSITION FITTING)		EA		
EXPANSION JOINT 4" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 4" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 5" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 6" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 10" FLG - BELLOWS (304 SS)		EA		
EXPANSION JOINT 10" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 12" FLG - RUBBER, SINGLE FILLED ARCH w/ CONTROL RODS		EA		
EXPANSION JOINT 18" FLG - BELLOWS (304 SS)	1.0	EA	3,378.57	3,379

Max Glynn

From: Robert Archer
Sent: Thursday, December 20, 2018 9:48 AM
To: Max Glynn
Subject: FW: West Villages Pricing

From: Oliver, Christopher <christopher.oliver@coreandmain.com>
Sent: Tuesday, December 11, 2018 8:25 AM
To: Robert Archer <rarcher@garney.com>
Cc: Baldwin, Charlotte <Charlotte.Baldwin@coreandmain.com>
Subject: RE: West Villages Pricing

2" ARV (VMC-301A): $945.65
2" Well Service ARV (VM-100ST): $965.00
2" BRZ Threaded Ball Valve:
2" x 7.5" Nipples:
2" x 4" Nipples:
4" x 2" Tapping Saddle:
6" x 2" Tapping Saddle:
8" x 2" Tapping Saddle:
10" x 2" Tapping Saddle:
12" x 2" Tapping Saddle:
4" Smith Blair 911SS FCA:
6" Smith Blair 911SS FCA:
8" Smith Blair 911SS FCA:
10" Smith Blair 911SS FCA:
12" Smith Blair 911SS FCA:
16" Smith Blair 911SS FCA: $658.01
18" Smith Blair 911SS FCA:

Thank you,
Christopher G. Oliver
Project Coordinator
Core & Main
PH: 813-621-1971
CELL: 813-294-4631
Fax: 813-621-3280
NEW EMAIL:
Christopher.oliver@coreandmain.com

-This message is for intended addressee(s) only and may contain confidential, proprietary or privileged information, exempt from disclosure, and subject to terms at: http://emailterms.coreandmain.com.

PIPE SUPPORT COSTS

Fig No.	Description	Centerline (inch)	Pipe Size/Type	Install Location	QNTY	Mark-No.	COST EACH	EXTENDED
535	ADJ. PIPE STAND	64.5	4" DIP	010-HEADWORKS	2	MK-010-01		
538	ADJ. PIPE STAND W/ UBOLT	25.5	12" FRP	010-HEADWORKS	1	MK-010-02		
538	ADJ. PIPE STAND W/ UBOLT	43.5	8" FRP	010-HEADWORKS	2	MK-010-03		
535	ADJ. PIPE STAND	30.5	16" DIP	010-HEADWORKS	5	MK-010-04	$610.00	$3,050.00
	ADJ. FLANGE SUPPORT	30.5	24" DIP	010-HEADWORKS	1	MK-010-05	$1,620.00	$1,620.00
535	ADJ. PIPE STAND	52.5	10" DIP	021-IRML P.S..	3	MK-021-01		
535	ADJ. PIPE STAND	28.5	12" DIP	021-IRML P.S..	3	MK-021-02		
535	ADJ. PIPE STAND	28.5	16" DIP	021-IRML P.S..	2	MK-021-03		
535	ADJ. PIPE STAND	54.5	16" DIP	021-IRML P.S..	3	MK-021-04		
	ADJ. FLANGE SUPPORT	52.5	10" DIP	021-IRML P.S..	3	MK-021-05		
538	ADJ. PIPE STAND W/ UBOLT	19.5	10" SST	030-DIGESTOR	3	MK-030-01		
	ADJ. FLANGE SUPPORT	34.5	4" DIP	043-SCUM P.S	4	MK-043-01		
535	ADJ. PIPE STAND	34.5	6" DIP	051-MLE DRAIN P.S.	4	MK-051-01		
535	ADJ. PIPE STAND	22.5	6" DIP	051-MLE DRAIN P.S.	2	MK-051-02		
	ADJ. FLANGE SUPPORT	34.5	6" DIP	051-MLE DRAIN P.S.	2	MK-051-03		
535	ADJ. PIPE STAND	34.5	12" DIP	052-RAS/WAS P.S.	4	MK-052-01		
535	ADJ. PIPE STAND	34.5	4" DIP	052-RAS/WAS P.S.	6	MK-052-02		
535	ADJ. PIPE STAND	34.5	6" DIP	052-RAS/WAS P.S.	9	MK-052-03		
535	ADJ. PIPE STAND	34.5	8" DIP	052-RAS/WAS P.S.	6	MK-052-04		
	ADJ. FLANGE SUPPORT	34.5	8" DIP	052-RAS/WAS P.S.	1	MK-052-05		
520	FIXED PIPE STAND W/ UBOLT	16.5	10" SST	060-FILTERS	4	MK-060-01		
535	ADJ. PIPE STAND	34.5	10" DIP	060-FILTERS	3	MK-060-02		
535	ADJ. PIPE STAND	58.5	14" DIP	060-FILTERS	5	MK-060-03		
535	ADJ. PIPE STAND	34.5	20" DIP	060-FILTERS	6	MK-060-04		
538	ADJ. PIPE STAND W/ UBOLT	34.5	10" SST	060-FILTERS	5	MK-060-05		
538	ADJ. PIPE STAND W/ UBOLT	22.5	10" SST	060-FILTERS	2	MK-060-06		
521	FIXED PIPE STAND	22.5	18" DIP	070-EFFLUENT P.S.	3	MK-070-01		
535	ADJ. PIPE STAND	22.5	12" DIP	070-EFFLUENT P.S.	2	MK-070-02		
	ADJ. FLANGE SUPPORT	22.5	12" DIP	070-EFFLUENT P.S.	1	MK-070-03		
535	ADJ. PIPE STAND	54.5	18" DIP	080-DIW	4	MK-080-01	$1,275.00	$5,100.00
535	ADJ. PIPE STAND	54.5	18" SST	080-DIW	2	MK-080-02	$1,275.00	$2,550.00
535	ADJ. PIPE STAND	32	6" DIP	090-REJECT P.S.	2	MK-090-01		
535	ADJ. PIPE STAND	22.5	6" DIP	090-REJECT P.S.	2	MK-090-02		
	ADJ. FLANGE SUPPORT	32	6" DIP	090-REJECT P.S.	2	MK-090-03		
538	ADJ. PIPE STAND W/ UBOLT	58.5	12" SST	110-BLOWER BLDG	3	MK-110-01		
538	ADJ. PIPE STAND W/ UBOLT	58.5	8" SST	110-BLOWER BLDG	4	MK-110-02		
	ADJ. FLANGE SUPPORT	58.5	8" SST	110-BLOWER BLDG	3	MK-110-03		
535	ADJ. PIPE STAND	34.5	6" DIP	170-SITE LIFT STA	3	MK-170-01		
	ADJ. FLANGE SUPPORT	34.5	12" DIP	170-SITE LIFT STA	1	MK-170-02		
	ADJ. FLANGE SUPPORT	34.5	6" DIP	170-SITE LIFT STA	1	MK-170-03		
535	ADJ. PIPE STAND	34.5	18" DIP	180-EFFLUENT F.M.	3	MK-180-01		
	RISER CLAMP		4" SST		2			
	RISER CLAMP		4" DIP		4			
	RISER CLAMP		6" DIP		4			
	RISER CLAMP		8" DIP		1			
	RISER CLAMP		10" SST		6			
	RISER CLAMP		18" DIP		2			

Total:

CYPRESS
CONSTRUCTION & COATINGS, INC.

Lehigh Acres • Pensacola • Baton Rouge

North Port West Village
12/21/2018

Garney
ATTN: Max Glynn

Scope	Pricing
Add for DIP as indicated in provided drawings	$5,923
Credit for deleted DIP at Headworks as indicated in provided drawings	$283
Total	**$5,640**

Autumn Collins
Senior Estimator
autumn@Cypresscc.net
Direct: (225) 603-4102

Max Glynn

From: Matthew McCreary
Sent: Tuesday, October 30, 2018 6:01 AM
To: Max Glynn
Subject: FW: West Villages: 18" SS Silent Glove CV
Attachments: CV51.pdf

Importance: High

From: Trey.Felder@ferguson.com <Trey.Felder@ferguson.com>
Sent: Monday, October 29, 2018 3:42 PM
To: Matthew McCreary <mmccreary@garney.com>
Cc: Mark.Stokes@Ferguson.com; Trey.Felder@ferguson.com
Subject: West Villages: 18" SS Silent Glove CV
Importance: High

Matt,

We can provide the attached Titan valve for $21,500.00/EA. Vendor currently has (1) in stock, so time is of the essence to lock it down or be subject to prior sale.

Please call me or Mark with any questions.

Thanks!

Trey Felder
Project Manager
Plant Division

Ferguson Waterworks
12042 Blanco Rd, Suite 200, San Antonio, TX 78216
P: (210) 662-4902 D: (210) 253-8143 F: (210) 348-8793
E: trey.felder@ferguson.com

www.Ferguson.com/Waterworks

CV51-0213

TITAN FLOW CONTROL, INC.

SILENT CHECK VALVE ❖ GLOBE TYPE ❖ CENTER GUIDED

ASME CLASS 150 ❖ CARBON & STAINLESS STEEL ❖ FLANGED ENDS (RF)

MODELS: CV 51-CS
CV 51-SS

PATENTED DESIGN WITH INTEGRAL STRAIGHTENING VANES

Body: Carbon & Stainless Steel
Trim: Stainless Steel

FEATURES

SIZE RANGE: 2" ~ 24"
LARGER SIZES AVAILABLE

◇ **DESIGNED FOR LONG SERVICE LIFE**

NEWLY DESIGNED CV51'S HAVE STRAIGHTENING VANES THAT REDUCE TURBULENCE IN INCOMING FLOW, THUS MINIMIZING NOISE, VIBRATIONS, EROSION, CAVITATIONS, AND OTHER FACTORS THAT COULD RESULT IN PREMATURE VALVE FAILURE.

◇ **MINIMAL HEAD LOSS**

HEAD LOSS IS MINIMIZED BY THE INTEGRAL STRAIGHTENING VANES THAT HELP CREATE LAMINAR FLOW. A LARGE CROSS-SECTIONAL AREA ALSO LESSENS PRESSURE DROP ACROSS THE CHECK VALVE. UNLIKE TYPICAL CONICAL SPRING CONSTRUCTIONS THAT RESTRICT FLOW, THE NEW CV 51 HAS A COMPRESSION SPRING COUPLED WITH A SMALL STEM GUIDE THAT ALLOWS FOR AN UNOBSTRUCTED FLOW PATH.

◇ **QUICK CLOSURE TO REDUCE WATER HAMMER**

SILENT SHUT-OFF IS ACHIEVED VIA THE FULLY AUTOMATIC, SPRING ASSISTED DISC THAT CLOSES NEAR ZERO FLOW VELOCITY. THE LIGHTWEIGHT, CENTER GUIDED DISC DESIGN CREATES A POSITIVE SHUTOFF PRIOR TO FLOW REVERSAL AND HELPS TO KEEP SLAMMING AND SURGES TO A MINIMUM. ADDITIONALLY, THE LOW CRACKING PRESSURE OF THE CV 51 REDUCES THE AMOUNT OF ENERGY REQUIRED TO OPEN THE VALVE.

◇ **METAL-TO-METAL SEATS**

PRECISION MACHINED SEALING SURFACES ALLOW THE CV 51-CS/SS TO MAINTAIN A TIGHT SEAL THAT MEETS OR EXCEEDS API 598 LEAKAGE REQUIREMENTS. RESILIENT SEATS ARE ALSO AVAILABLE TO PROVIDE BUBBLE TIGHT SEALS. SEALING IS FURTHER IMPROVED BY AN ADDITIONAL GASKET ASSEMBLED WITH THE SEAT INDEPENDENT OF THE FLANGE GASKET.

◇ **VERSATILE AND ECONOMIC DESIGN**

CLEARANCE WITHIN THE CV 51'S BODY ALLOWS A BUTTERFLY VALVE TO BE INSTALLED DIRECTLY ON THE OUTLET SIDE OF THE VALVE WITHOUT EXTRA PIPING. BECAUSE THE VALVE'S TRIM IS INTERCHANGEABLE, VARIOUS SEATS, DISCS, AND SPRINGS ARE AVAILABLE AND EASY TO REPLACE. EXOTIC SPRING MATERIAL, SUCH AS MONEL OR INCONEL 750-X, CAN EASILY BE SUBSTITUTED FOR THE STANDARD STAINLESS STEEL.

TECHNICAL

PRESSURE/TEMPERATURE RATING [1] CS - ASTM A216 GR. WCB - CLASS 150
WOG (Non-shock): 285 PSI @ 100 °F
PRESSURE/TEMPERATURE RATING [1] SS - ASTM A351 GR. CF8M - CLASS 150
WOG (Non-shock): 275 PSI @ 100 °F
SEAT MATERIAL [1] TEMPERATURE RANGE
STAINLESS STEEL: -325 ~ 1500 °F
SPRING MATERIAL [1] MAXIMUM TEMPERATURE
STAINLESS STEEL: 450 °F

1. *The above listed temperatures are theoretical and may vary during actual operating conditions.*

APPLICATIONS

MARKETS: OIL AND GAS PRODUCTION, GENERAL INDUSTRY, CHEMICAL, PETROCHEMICAL, POWER, FOOD AND BEVERAGE

SERVICE: PUMP DISCHARGE SERVICE IN MUNICIPAL WATER, IRRIGATION, AND INDUSTRIAL CLASS HVAC SYSTEMS. IT IS RECOMMENDED THAT A TITAN FCI STRAINER BE INSTALLED AHEAD OF THE PUMP TO ENSURE PROTECTION OF THE CHECK VALVE AND THE PUMP.

PRECAUTIONS: THIS VALVE IS INTENDED FOR LIQUID SERVICE THAT DOES NOT EXCEED 10 FT/SEC. IT IS DESIGNED FOR STEADY FLOW CONDITIONS AND IS NOT RECOMMENDED FOR USE IN RECIPROCATING PUMP, COMPRESSOR OR OTHER TYPE OF PHYSICAL/THERMAL SHOCK-LOAD APPLICATIONS. THIS VALVE IS NOT RECOMMENDED FOR STEAM SERVICE OR FLOW MEDIA THAT CONTAINS SOLIDS. IT SHOULD BE INSTALLED AT LEAST FIVE PIPE DIAMETERS DOWNSTREAM FROM ANY TURBULENCE PRODUCING COMPONENTS. ADDITIONAL FLOW STRAIGHTENERS MAY BE REQUIRED IN CERTAIN APPLICATIONS.

The above data represents common market and service applications. No representation or guarantee, expressed or implied, is given due to the numerous variations of concentrations, temperatures and flow conditions that may occur during actual service.

TITAN FLOW CONTROL, INC.

YOUR PIPELINE TO THE FUTURE!

Tel: 910-735-0000 ◇ Fax: 910-738-3848 ◇ titan@titanfci.com ◇ www.titanfci.com
290 Corporate Drive ◇ PO Box 7408 ◇ Lumberton, NC 28358

CV51-0213

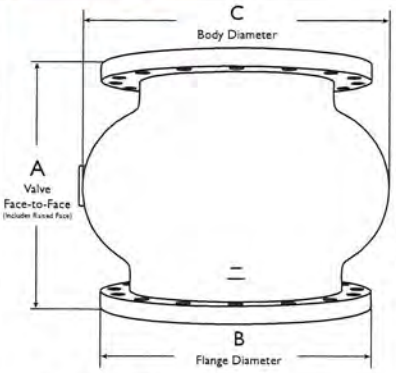
TITAN FLOW CONTROL, Inc.
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Lumberton, NC 28358
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E-mail: titan@titanfci.com
Web: www.titanfci.com
Fax: 910.738.3848

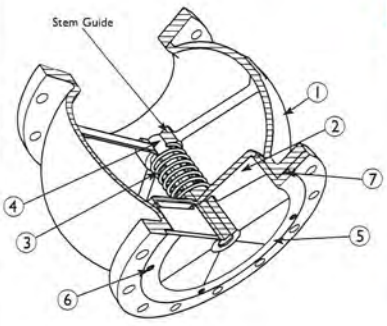
SILENT CHECK VALVE • GLOBE TYPE

CV 51-CS (Carbon) CV 51-SS (Stainless Steel)

Flanged Ends (RF) • Globe Style • Center Guided Disc

ASME Class 150





BILL OF MATERIALS (1)

No.	PART	CV 51-CS	CV 51-SS
1	Body	Carbon Steel A216 Gr. WCB	Stainless Steel A351 Gr. CF8M Type 316
2	Disc (2)	Stainless Steel Gr. CF8M Type 316	Stainless Steel Gr. CF8M Type 316
3	Spring (2)	Series 300 Stainless Steel	Series 300 Stainless Steel
4	Bushing (2)	Stainless Steel	Stainless Steel
5	Seat (2) (3)	Stainless Steel Gr. CF8M Type 316	Stainless Steel Gr. CF8M Type 316
6	Cap Screw	Stainless Steel	Stainless Steel
7	Gasket (2)	Non-asbestos Gasket	Non-asbestos Gasket

1. Bill of Materials represents standard materials. Equivalent or better materials may be substituted at the manufacturer's discretion.
2. Denotes recommended spare parts.
3. Resilient Seats are available upon request. Please call for details.

Application/Additional Notes:

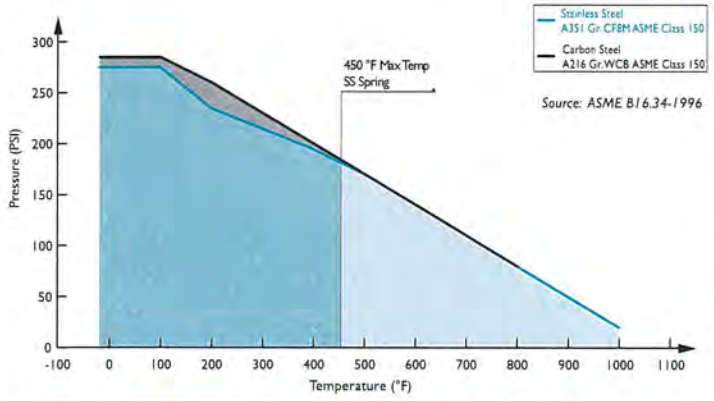
- Face-to-Face Dimension 'A' *includes* raised face. Class 150 flanges are regularly furnished with 1/16 inch high raised face.
- Carbon Steel bodies are epoxy painted. Other coatings are available; please contact factory for details.
- Contact Titan FCI Engineering for flexible expansion joint applications.

DIMENSIONS AND PERFORMANCE DATA (1)

SIZE (2)		2	2 ½	3	4	5	6	8	10	12	14	16	18	20	24
	mm	50	65	80	100	125	150	200	250	300	350	400	450	500	600
A DIMENSION FACE TO FACE (3)	in	6.25	C/F	7.55	8.50	C/F	10.50	12.0	14.0	18.0	19.50	21.0	22.5	24.0	24.0
	mm	159	C/F	192	216	C/F	267	305	356	457	495	533	572	610	610
ØB DIMENSION FLANGE DIAMETER	in	6.00	C/F	7.50	9.00	C/F	11.00	13.50	16.00	19.00	21.00	23.5	25.0	27.5	32.0
	mm	152	C/F	191	229	C/F	279	343	406	483	533	597	572	699	813
ØC DIMENSION BODY DIAMETER	in	4.63	C/F	6.63	8.62	C/F	11.13	15.84	17.69	21.25	24.0	26.5	29.0	32.75	37.0
	mm	118	C/F	168	219	C/F	283	402	449	540	610	673	737	832	940
WEIGHT (APPROXIMATE)	lb	15.2	C/F	30.0	49.0	C/F	80.0	138.0	165.0	310.0	420.0	593.0	690.0	970.0	1500
	kg	6.3	C/F	13.6	22.2	C/F	36.3	62.4	74.8	140.6	190.5	268.2	312.1	438.8	681
Flow Coefficient	C_v	65	C/F	150	265	C/F	600	1100	1800	2500	3100	4800	6100	7800	9800
Cracking Pressure (4)	psi	≤ .5	C/F	≤ .5	≤ .5	C/F	≤ .5	≤ .5	≤ .5	≤ .5	≤ .5	≤ .5	≤ .5	≤ .5	≤ .5

1. Dimensions, weights, and flow coefficients are provided for reference only. When required, always request certified drawings.
2. Larger sizes are available. Please consult factory for these sizes and dimensions.
3. Face to face values have a tolerance of ±0.06 in (±2.0 mm) for sizes 6" and lower and a tolerance of ±0.12 in (±3.0 mm) for sizes 8" and larger.
4. Cracking pressure is for horizontal installations only. For vertical installations, please consult factory.

PRESSURE - TEMPERATURE RATINGS (1)



1. This chart displays the pressure-temperature ratings for the valve's body. Max temperature limits have been added for the spring material.

ORDERING CODE

Model Number	Description
CV51-CS	Carbon Steel Body, Stainless Steel Seat and Disc
CV51-SS	Stainless Steel Body, Stainless Steel Seat and Disc

REFERENCED STANDARDS & CODES

CODE	DESCRIPTION
ASME B16.5	Pipe Flanges & Flanged Fittings
ASME/API 594	Valve Design and Manufacture
API 598	Valve Inspection and Pressure Test
MSS SP-6	Standard Finishes for Connecting-end Flanges
MSS SP-25	Standard Marking System for Valves
MSS SP-55	Quality Standard for Valve Castings

PRESSURE - TEMPERATURE RATING

ASME CLASS 150	Carbon Steel	Stainless Steel
WOG (Non-shock)	285 PSI @ 100 °F	275 PSI @ 100 °F

TEMPERATURE RANGE SEAT

SEAT	Temperature
Stainless Steel	-325 ~ 1500 °F

MAX TEMPERATURE SPRING

SPRING	Max Temperature
Stainless Steel	450 °F

The listed pressure and temperature ratings for the valve's body, seat, and spring are theoretical and may vary during actual operating conditions.

Titan FCI makes every effort to ensure the information presented on our literature accurately reflects exact product specifications. However, as product changes occur, there may be short-term differences between actual product specifications and the information contained within our literature. Titan FCI reserves the right to make design and specification changes to improve our products without prior notification. When required, request certified drawings.

Garney CONSTRUCTION
ADVANCING WATER

MISC. VALVE COSTS

Attachment Ferguson SWRF
15210
LARGE DIA VALVES

	QTY	UM	LIST PRICE	MTRL TOTAL
VLV GATE VALVE 06" FLG W/HW OP	7.0	EA	497.00	3,479
VLV PLUG 16" FLG W/HW OP	2.0	EA	3,661.00	7,322
VLV SWING CHECK VALVE-FLG 18" (W/ LIMIT SWITCH	1.0	EA	7,325.00	7,325

CHANGE ORDER

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

PROJECT: 18-3223
West Village Southwest WWRF
8898 S Tamiami Trail
North Port, FL 34293

TO: Pleasant Mount Welding, Inc.
45 Dundaff Street
Carbondale, PA 184071801

CHANGE ORDER #: 103
CHANGE ORDER DATE: 09/17/2018
PROJECT #s: 0547P027
DATE OF CONTRACT: 07/16/2018
FOR: Misc Metals

The Contract is changed as follows:

PENDING CHANGE ORDER 3223PC3

Delete BC M-123, 43 Sq/ft aluminum grating 1 ½" 19SGI4	($798)
Delete BC M-125, 4 Aluminum channels to support the above grating	($705)
Delete BC N-127, 4 Sq/ft aluminum grating for the dish sump 1 ½" 19SGI4	($122)

Total Contract Change (Deduct) ($1,625)
Freight Included – Tax Not Included

"As a policy of PMWI, we will issue a 100% credit for an item that is no longer needed, contingent upon the item was not detailed yet. As an industry standard, if we detailed the item, in the anticipation that you will need it, and it needs to be deleted at a later date, we will issue a 90% credit for that item". **Due to rising costs of material & shipping, prices are only good for 30 days from above date.**

The original Contract Sum was	$530,079.00
The net change by previously authorized Change Orders is	$0.00
The Contract Sum prior to this Change Order was	$530,079.00
The Contract Sum will be decreased by this Change Order in the amount of	($1,625.00)
The new Contract Sum including this Change Order will be	$528,454.00
The Contract Time will be increased by	0 days.
The date of Substantial Completion as of this Change Order therefore is	Unchanged

Not valid until signed by all parties below.

	Pleasant Mount Welding, Inc.	Garney Construction
ARCHITECT	**CONTRACTOR**	**OWNER**
	45 Dundaff Street	1333 NW Vivion Road
ADDRESS	**ADDRESS**	**ADDRESS**
	Carbondale, PA 184071801	Kansas City, MO 29405
BY *(Signature)*	**BY** *(Signature)*	**BY** *(Signature)*
		Lloyd Soeters
(Typed Name)	*(Typed Name)*	*(Typed Name)*
DATE	**DATE**	**DATE**

Quantum Software Solutions, Inc. Document

BUYER INITIATED MODIFICATIONS @ INFLUENT FLOW METER

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton, FL 34203 (physical)
P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

OFFICIAL USE ONLY
- ☐ Job No: _____
- ☐ Control No: _____
- ☐ Log Date: _____
- ☐ Invoice No: _____
- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - 100% Conformed Drawing Changes (Revision 1)	**Bid Number:**	2697-P0012r1
Project Location:		**Bid Date:**	9/27/2018

Thank you for the opportunity to quote.

Item #	Item Description	Total Price
1. Force Main		
1	16" MJ Plug Valve (Replaces 16" Gate Valve) *	$0.00
2	24" MJ 22.5 Bend (1 EA)	$3,147.03
3	Deduct 16" MJ Plug Valve (1 EA)	($4,433.38)
4	Deduct 16" MJ Gate Valve (1 EA) **	($940.38)
5	Deduct - 24" C-900 DR-25 PVC Force Main Pipe (40 LF) **	($667.60)
6	Deduct - Fittings - Force Main ** · 24"x16" MJ Tee · 24"x16" MJ Reducer	($428.05)
	Total Price for above 1. Force Main Items:	**($3,322.38)**
6. Site Concrete		
1	Additional Concrete Sidewalk (Used Established Unit Price)	$3,725.25
2	Concrete Driveway · Odor Control · Septage Receiving Station	$14,469.40
3	Deduct Asphalt At Concrete Driveways · Odor Control · Septage Receiving Station · Solids Handling	($10,970.60)
4	Handicap Ramp	$8,510.67
	Total Price for above 6. Site Concrete Items:	**$15,734.72**
8. Chain Link Fence & Gate		
1	Gate Configuration Went Back To Original Design And "Round 2" Pricing	$0.00
	Total Price for above 8. Chain Link Fence & Gate Items:	**$0.00**

Total Bid Price: $12,412.34

Notes:
- * The price for 1 EA 16" MJ Plug Valve is already established within Proposal P18-012r7 West Villages (100% Civil Plans)
- ** This material was already ordered and currently onsite. The deduct excludes the price of the material, it will be determined at a later date whether the owners wants it or if it will be sent back to the supplier with probably a restocking fee.
- All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
- Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the proposal.
- Any item not specifically listed in this proposal is not included.

Woodruff & Sons, Inc.

6450 - 31st Street East, Bradenton, FL 34203 (physical)
P.O. Box 10127, Bradenton, FL 34282-0127 (mailing)
Tel # 941.756.1871 ~ Fax # 941.755.1379

www.woodruffandsons.com

Proposal

OFFICIAL USE ONLY

- ☐ Job No: _____
- ☐ Control No: _____
- ☐ Log Date: _____
- ☐ Invoice No: _____
- ☐ Change Order No: _____

To:	Garney Construction	**Contact:**	Max Glynn
Address:	370 East Crown Point Rd	**Phone:**	(321) 221-2832
	Winter Garden, FL 34787	**Fax:**	(407) 287-8781
Project Name:	West Villages - 100% Conformed Drawing Changes (Revision 1)	**Bid Number:**	2697-P0012r1
Project Location:		**Bid Date:**	9/27/2018

- This quotation excludes: rock removal, dewatering, and unsuitable soil.
- The items within this proposal are presented as the entire project, whereby an individual line item may not be removed or eliminated without prior approval.
- Woodruff & Sons, Inc. will not be responsible for identifying or handling any hazardous or contaminated material that may be encountered.
- Prices may be withdrawn by Woodruff & Sons, Inc. if not accepted within 45 days of receiving this proposal.

Payment Terms:

Payment due within 30 days of date of invoice, regardless of when payment is made by Owner.

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. **Buyer:** _____ **Signature:** _____ **Date of Acceptance:** _____	**CONFIRMED:** **Woodruff & Sons, Inc. - Proposal** **Authorized Signature:** _____ **Estimator:** Matt Anderson (941) 756-1871 matta@woodruffandsons.com

CHANGE ORDER NO. 4

Date of Issuance: _____ Effective Date: _____

Project: ***WEST VILLAGES SOUTHWEST WASTEWATER RECLAMATION FACILITY***	Owner: ***WEST VILLAGES IMPROVEMENT DISTRICT***	Agreement No.: n/a
Contract: **Construction Management Agreement**		Date of Agreement: **March 9, 2018 (assigned to WVID 4/12/18)**
Contractor/Vendor: **Garney Companies, Inc.**		Architect's/Engineer's Project No.: n/a

The foregoing agreement is modified as follows upon execution of this Change Order:

Description:
Modifications to the Control, Blower, and Chemical Buildings.

Attachments:
Proposals

CHANGE IN CONTRACT PRICE:

Original Contract Price:

$14,304,745.00

Increase/~~Decrease~~ from prior Change Orders:

$17,946,337.00

Contract Price prior to this Change Order:

$32,251,082.00

Increase/Decrease of this Change Order:

$0.00

Contract Price incorporating this Change Order:

$32,251,082.00

CHANGE IN CONTRACT TIMES:

Original Contract Times: ~~Working days~~ Calendar days

Substantial completion (days or date): **640**

Ready for final payment (days or date): **670**

Increase/Decrease from previously approved Change Orders

Substantial completion (days): **9**

Ready for final payment (days): **9**

Contract Times prior to this Change Order:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

Increase/Decrease of this Change Order:

Substantial completion (days or date): **0**

Ready for final payment (days or date): **0**

Contract Times with all approved Change Orders:

Substantial completion (days or date): **649**

Ready for final payment (days or date): **679**

RECOMMENDED BY:
Kimley-Horn & Associates, Inc.
PROJECT ENGINEER

By: _____

Title: Project Engineer

Date: April 3, 2019

ACCEPTED:
West Villages Improvement District

By: _____

Title: Secretary

Date: 4-4-19

ACCEPTED:
Garney Companies, Inc.

By: _____

Title: Timothy M Behler

Date: 4/9/19

PROPOSAL SUMMARY

Modify scope of work at the metal buildings as follows:

Control Building

- Increase column footing sizes in accordance with revised Architectural Drawings.
- Modify the covered entrance per revised Architectural Drawings including changing columns to split face block and changing beams to precast concrete with stucco finish .
- Add stucco band around all doors and windows and at the top of exterior walls as requested by the City of North Port.
- Modify overhead doors due to clearance issues with structural framing.
- Add structural steel supports at the top of all masonry walls as required by the Architect to meet design wind load speeds.

Blower Building

- Increase column footing sizes in accordance with revised Architectural Drawings.
- Add stucco band around all doors and louvers and at the top of exterior walls as requested by the City of North Port.
- Add structural steel supports at the top of all masonry walls as required by the Architect to meet design wind load speeds.

Chemical Building

- Add stucco band around all doors and at the top of exterior walls as requested by the City of North Port.
- Add structural steel supports at the top of all masonry walls as required by the Architect to meet design wind load speeds.

$100,885.00

The cost of this additional work in the amount of $100,885 will be deducted from the remaining contingency balance. Contingency will be reduced from $657,177 to $556,292.

370 EAST CROWN POINT ROAD
WINTER GARDEN, FL 34787

February 12, 2019

West Villages, LLP
19503 S. West Villages Parkway, #14
Venice, FL 34293

Attn: Mr. Brad Soule

Re: Southwest WWRF
PCI-06 Metal Building Changes 2

Dear Mr. Soule,

Garney hereby submits pricing for PCI-06 in the amount of $100,885.00 to modify the metal buildings. This proposal includes costs associated with changes to the Control Building, Blower/Electrical Building, and Chemical/Electrical Building. A summary of the changes is noted below.

Control Building Changes: $38,460.00

- Changes from Architect's Response to Submittal 05500-01A and revised foundation schedule dated 11/7/2018.
  - Increase size for Column Footing F3, F4
  - Add Column Footing F5 and change (2) Column Footings from F3 to F5
  - Additional rebar for all Column Footings
- Changes from Architect's response to "RFI 036 – Control Building Entry", and revised Architectural Plans dated 11/7/2018
  - Add Column Footings F6, F7
  - Add 16" x 16" split face columns, precast lintels and stucco at Control Building entry
- Changes from Kimley-Horn and City of North Port's response to "RFI 056 – Stucco Finish at Doors, Windows, Louvers" dated 1/18/2019
  - Add stucco finish around all doors, windows and louver openings at Control Building
- Changes to Overhead Doors at the Control Building based on the response to "RFI 058 – Control Building Overhead Door Modifications" dated 1/28/2019.
  - Replace (2) 10'-00" x 8'-08" overhead doors with (1) 14'-04" x 8'-08" overhead door.
  - Revise concrete columns and masonry layout for new overhead door. Includes saw-cutting the slab and new precast lintel.

Masonry to PEMB Connections at All Buildings (excluding Solids Handling): $49,468.00

- Changes from Architect's response to "RFI 059 – Masonry to PEMB Connections"
  - Add C10x30 and W8x18 steel beams, weld clips, anchor bolts, and embeds per the redlined plans received 2/1/2019 and 2/4/2019.
  - Provide and install angle bracing where shown an A-1.0
  - Paint all additional beams where they are exposed.
  - This price includes a deduct of $24,382.00 that was included in PCI-03.

Blower/Electrical Building Changes: $10,337.00

- Changes from Architect's email and revised drawings dated 10/23/2018

- Increase size for Column Footings F3, F4

- Changes from Kimley-Horn and City of North Port's response to "RFI 056 – Stucco Finish at Doors, Windows, Louvers" dated 1/18/2019.
  - Add stucco finish around all doors, windows and louver openings at Blower Building

Chemical/Electrical Building Changes: $2,620.00

- Changes from Kimley-Horn and City of North Port's response to "RFI 056 – Stucco Finish at Doors, Windows, Louvers" dated 1/18/2019.
  - Add stucco finish around all doors, windows and louver openings at Chemical Building

Please note that additional changes may be required for the referenced buildings based on comments from the Building Department and future submittal review comments from the Architect and the City.

The changes to the metal buildings have impacted the construction schedule. To mitigate the delays, Garney has proceeded with the majority of the additional work referenced herein but reserves the right to request a time extension at a later date if warranted by the changes to these buildings.

The scope of work is only as specifically included in this proposal.

Sincerely,

Max Glynn
Senior Project Manager

Cc: Eng. File, SLF

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval #7 REVISED

Project:	City of North Port SWWWRF West Villages	Date:	December 4, 2018
Requested By:	Craig Holliday	Phone:	941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Revise concrete foundations for larger sizes as per revised plans for Architecture Studio marked in red, for Control Building only. No dewatering is included in this proposal.

2. Add 2 mats of steel for each pad for a total of 3 mats of re-bar in each pad.

TOTAL $19,750.00

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF
West Villages Control Building

Date: 12/13/2018

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. These changes will only be started after approval in writing from the owner. Upon your review, please "√" for approval and "X" for disapproval next to each item listed below. Upon receipt, we will in turn forward a change order to you.

1. Modify the Design for the Control Building to allow for regular block and stucco surrounds for all window and door locations and top of wall band. This will include additional re-bar, fill cells and precast lintels as necessary. Add: **$10,315.00**

2. Modify the Design for the control building to add split face block columns, modify the foundation, add precast lintels and stucco for new 16" x 16" columns at entry area. We cannot provide a 12" x12" split face column. Add: **$3,875.00**

APPROVED AS NOTED ABOVE: _____

Owner

Owner Change Order Required: Yes ___ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval #9

Project: City of North Port SWWWRF
West Villages Control Building

Date: 2/2/2019

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Omit (2) 10'-0" x 8'-8" 620 series roll up doors & add (1) 14'-4" x 8'-8" 620 series roll up door. Send doors back and order new one. ADD: **$495.00**

2. Revise concrete columns & saw cut slab. Revise masonry lay-out for change to roll up door. Reform columns & beams ADD: **$4,025.00**

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS · DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF Date: February 9, 2019

Requested By: Craig Holliday Phone: (941) 951-2699

The items listed below represent proposed changes to be made for the above referenced project. These changes will only be started after approval in writing from the owner. Upon your review, please "√" for approval and "X" for disapproval next to each item listed below. Upon receipt, we will in turn forward a change order to you.

1. **Provide and install new C 10 x 30 and W 8 x 18 steel beams, weld clips, anchor bolts and inbeds as per the plans redlined on the architectural sheets A-1.0, A-2.0, A-3.0 and attached detail sheet with Detail A,B and C. We will also be including 2 angle braces as per the revised drawing A-1.0 and A-3.0. We will be painting the W 8 x 18 beams where they are exposed. This work is going to be done on the Control, Chemical and Blower buildings. Add $68,900.00**

2. **Deduct charge from Change Order #1 for steel channel work for the Blower and Chemical buildings only. Deduct ($24,382.00)**

3. **Move off metal building subcontractor and have him remobilize one the steel channel work is completed so that they can complete the construction of the gable ends framing and siding. Add $ 4,950.00**

APPROVED AS NOTED ABOVE: _____
Owner

Owner Change Order Required: Yes _X__ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWWRF
West Villages

Date: September 21, 2018

Requested By: Craig Holliday

Phone: 941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Blower/Electrical Building---provide all labor and material for the additional concrete work, metal framing work, and metal channel work. As per the revised plans by Kimley Horn, dated 9/13/2018.

   ADD $12,191.00

2. Chemical/Electrical Building---provide all labor and material for the additional concrete work, metal framing work, and metal channel work.

   ADD $12,191.00

Pricing to be deducted from PCI-003 per item No. 2 on previous page.

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval

Project: City of North Port SWWRF

Date: December 13, 2018

Requested By: Craig Holliday

Phone: (941) 951-2699

The items listed below represent proposed changes to be made for the above referenced project. These changes will only be started after approval in writing from the owner. Upon your review, please "√" for approval and "X" for disapproval next to each item listed below. Upon receipt, we will in turn forward a change order to you.

1. **Modify the design for the Blower building to allow for regular block and stucco surrounds for all overhead, door and louver locations and top of wall band. This will include additional re-bar, fill cells and precast lintels as necessary. ADD $ 7,062.00**

2. **Modify the design for the Chemical building to allow for regular block and stucco surround for all door locations and top of wall band. This will include additional re-bar, fill cells and precast lintels as necessary. ADD $ 2,620.00**

APPROVED AS NOTED ABOVE: _____

Owner

Owner Change Order Required: Yes _X__ No ___

Owner Change Order #: ___ Date: _____

HOLLIDAY GROUP
CONTRACTORS • DEVELOPERS
CONSTRUCTION MANAGERS

HOLLIDAY GROUP, LLC

Request for Approval #6 Revised

Project:	City of North Port SWWWRF West Villages	Date:	October 30, 2018
Requested By:	Craig Holliday	Phone:	941-951-2699

The items listed below represent proposed changes to be made for the above referenced project. Upon approval, please forward a change order to us for this work.

1. Increase size of foundations, as per field direction from Garney field personnel.

TOTAL $3,275.00

Owner Change Order Required: Yes _X_ No ___

Owner Change Order #: ___ Date: _____

ADDENDUM #1 TO AGREEMENT BETWEEN WEST VILLAGES IMPROVEMENT DISTRICT AS ASSIGNEE OF WEST VILLAGES CONSTRUCTION, LLLP AND GARNEY COMPANIES, INC.

This Addendum #1 (the or this "Addendum #1") is made to the March 9, 2018 Agreement between West Villages Construction, LLLP and Garney Companies, Inc., a Missouri corporation (the "CMAR") (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP, and assumed by West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit 1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the mutual covenants and agreements contained in this Addendum #1, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. EARLY OPERATION BONUS. The following is added as a new Section 2.3.2.3 of the Agreement:

> **§2.3.2.3 Early Operation Bonus.** If, prior to October 31, 2019, the wastewater reclamation facility is fully operational and under control of the City of North Port in full compliance with the performance specifications of the FDEP permit, and the City of North Port will issues residential building permits for new homes to be connected to the system serviced by the facility, then the CMAR shall be paid an early operation bonus ("Early Operation Bonus") in the sum of Four Thousand and No/100 Dollars ($4,000) per calendar day of such early operation of the Project facility, provided, however, that such Early Operation Bonus shall not exceed $120,000.
>
> **§2.3.2.3.1** The Early Operation Bonus shall be paid within thirty (30) days of the Substantial Completion date.
>
> **§2.3.2.3.2** For purposes of determining the Early Operation Bonus the October 31, 2019 date shall not be adjusted for any reason whatsoever, including the occurrence of a force majeure event that delays CMAR's performance of the Work. Further the Contractor's achievement of the Early Operation Bonus is not, and shall not be construed as the achievement of Substantial Completion of the Project.
>
> **§2.3.2.3.3** For purposes of earning the Early Operation Bonus, if the CMAR requests the WVID, the Engineer, or other consultants to perform activities outside normal business hours for any reason, CMAR shall reimburse the WVID for all reasonable additional costs incurred to respond to, and comply with, such request.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum #1.

Print Name Tracy K. Winsor

Print Name Max Colyer

"CMAR"

GARNEY COMPANIES, INC., a Missouri corporation d/b/a GARNEY CONSTRUCTION

By: _____
Name: Timothy M Behler
Title: Vice President
Date: 4/29/19

Print Name Todd Wodraska

Print Name _____

"WVID"

WEST VILLAGES IMPROVEMENT DISTRICT, a local ~~unit of~~ special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit 1: Agreement

EXHIBIT B

LOCATION OF INFRASTRUCTURE

The land referred to herein below is situated in the County of Sarasota, State of Florida, and is described as follows:

A tract of land lying in Section 33, Township 39 South, Range 20 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the East 1/4 corner of said Section 33; thence S.00°16'02"W., along the East line of said Section 33, a distance of 289.02 feet to the POINT OF BEGINNING, said point being the intersection of the Southerly right-of-way line of Tamiami Trail (U.S.41, Section 17010-2508, 204.00 foot wide public right-of-way); thence continue S.00°16'02"W., along said East line of Section 33, a distance of 1,702.14 feet; thence N.90°00'00"W., a distance of 404.30 feet; thence N.28°37'40"W., a distance of 1,003.23 feet; thence N.00°01'27"E., a distance of 355.39 feet; thence S.89°58'33"E., a distance of 740.41 feet; thence N.19°42'14"E., a distance of 210.88 feet; thence N.00°16'02"E., a distance of 284.07 feet to the point of curvature of a non-tangent curve to the left, having a radius of 3,011.73 feet and a central angle of 01°33'05", said point being on the above mentioned Southerly right-of-way line of Tamiami Trail; thence Easterly along the arc of said curve and said Southerly right-of-way line, a distance of 81.54 feet, said curve having a chord bearing and distance of S.78°34'49"E., 81.54 feet, to the POINT OF BEGINNING.

ACKNOWLEDGMENT OF ACQUISITION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACKNOWLEDGMENT OF ASSIGNMENT OF WARRANTIES

THIS ACKNOWLEDGMENT OF ACQUISITION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS AND ACKNOWLEDGMENT OF ASSIGNMENT OF WARRANTIES (the "Assignment") is made the 29th day of January, 2020 by:

West Villages Improvement District, which is a local unit of special-purpose government situated in the City of North Port and Sarasota County, Florida, whose mailing address is 2501-A Burns Road, Palm Beach Gardens, Florida 33410 (the "District"); and

Youngquist Brothers, Inc., a Florida corporation with a mailing address of 15465 Pine Ridge Road, Fort Myers, Florida 33908 (the "Contractor"); and

The City of North Port, Florida, a Florida municipal corporation with a mailing address of 4970 City Hall Boulevard, North Port, Florida 34286 (the "City").

RECITALS

WHEREAS, the Contractor has provided construction services to the District pursuant to a contract for the provision of such services, attached hereto as **Exhibit A** (the "Construction Contract"), as amended from time to time, in connection with its construction of deep injection well infrastructure and ancillary facilities, within the District as more particularly described on the attached **Exhibit B** (the "Improvements"); and

WHEREAS, the City intends to acquire the Improvements and, as part of that acquisition, the District intends to assign all warranties, including those provided in the Construction Contract, to the City; and

WHEREAS, the Contractor acknowledges that the warranties are freely assignable and has no objection to the assignment of the warranties to the City; and

NOW, THEREFORE, for and in consideration of mutual promises and obligations, the receipt and sufficiency of which are hereby acknowledged, the City and the District agree, and the Contractor acknowledges, as follows:

SECTION 1. ACQUISITION OF IMPROVEMENTS. Contractor acknowledges that the City is or has acquired the Improvements, constructed by Contractor in connection with the Construction Contract, from District. The Contractor acknowledges and agrees that all warranties, statutory and contractual, are freely assignable and has no objection to the District assigning to the City the warranties described therein for the Improvements.

SECTION 2. ASSIGNMENT OF WARRANTIES. District herby assigns such warranties to

the City, and the Contractor hereby agrees to fulfill such warranties pursuant to the terms of the Construction Contract and Florida law.

SECTION 3. CERTIFICATE OF PAYMENT. Contractor hereby acknowledges that it has been fully compensated for its services and work related to the completion of the Improvements. Contractor further certifies that no outstanding requests for payment exist related to the Improvements, the scope of which is set forth in **Exhibit A,** including any payments to subcontractors, materialmen, suppliers or otherwise, and that there is no disagreement as to the appropriateness of payment made for the Improvements. This document shall constitute a final waiver and release of lien for any payments due to Contractor by District and/or the District for the Improvements pursuant to the Construction Contract.

SECTION 4. EFFECTIVE DATE. This Assignment shall take effect on the date identified above.

[SIGNATURES ON NEXT PAGE]

ATTEST:

Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

ATTEST:

_____

_____
[print name]

THE CITY OF NORTH PORT, FLORIDA

_____

By: _____
Its: _____

ATTEST:

HARVEY YOUNGQUIST V.P.
[print name]

YOUNGQUIST BROTHERS, INC., a Florida corporation

By: C.W. (BILL) MUSSELWHITE
Its: SR. VICE PRESIDENT

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
("Owner")

AND
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
("Contractor")

MAY 1st, 2018

where the basis of payment is a Stipulated Lump Sum Price

AGREEMENT BETWEEN OWNER AND CONTRACTOR
where the basis of payment is a Stipulated Lump Sum Price

THIS AGREEMENT BETWEEN OWNER AND CONTRACTOR where the basis of payment is a Stipulated Sum (the "Agreement" or "Contract") is dated and made on the 7 day of May, 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Youngquist Brothers, Inc., a Florida corporation, (the "Contractor").

Owner Information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@mattamycorp.com

Contractor Information:
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
15465 Pine Ridge Road
Fort Myers, Florida 33908
Contractor's designated representative:
C.W. (Bill) Musselwhite, Senior Vice President
(239) 489-4545 - office
(239) 910-1191- mobile
Bill@youngquistbrothers.com

Project Information:
West Villages Improvement District Class I Industrial Injection Well System pursuant to the Drawings (Exhibit A) and Specifications (Exhibit B) prepared by Engineer. The Work includes all equipment, permitting, UIC permit, drilling, exploration, testing for the completion of the Project Work including, without limitation, all injection, return, supply and monitoring wells, two single zone monitoring wells, on-site storage, geophysical logging, casing, grouting, mobilization and demobilization, sampling, jobsite and home office overhead, insurance and bonds.

Engineer and Geologist Information (collectively the "Engineer"):
Engineer:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.
(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

Engineer's sub-consultant (the "Geologist"):
ASRUS, LLC, a Florida limited liability company
13329 North Armenia Avenue
Tampa, Florida 33613
Mark McNeal, Chief Executive Officer
(813) 264-9100
(813) 765-7942
mmcneal@asrus.net

Unless context otherwise requires, or as specifically set-forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as **Exhibit C**.

The Owner and Contractor agree as follows:

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 Contractor RESPONSIBILITIES

3 OWNER RESPONSIBILITIES

4 ENGINEER

5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE

6 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE

7 COST OF WORK FOR CONSTRUCTION PHASE

8 PAYMENT PROCEDURES

9 INSURANCE AND BONDS

10 ENUMERATION OF CONTRACT DOCUMENTS

11 MISCELLANEOUS

12 TERMINATION OR SUSPENSION

13 DISPUTE RESOLUTION

ARTICLE 1. GENERAL PROVISIONS

§1.1 Contractor has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means

and methods dictated by design parameters in the Contract Documents. Contractor covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner; (ii) provide efficient construction administration, management services and supervision; (iii) provide at all times an adequate supply of workers and materials; and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Drawings, Laws and Regulations, and the Contract Times.

§1.2 Neither Contractor nor any of Contractor's employees shall be deemed employees of the Owner for any purpose whatsoever; Contractor being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

ARTICLE 2. CONTRACTOR RESPONSIBILITIES

§ 2.1 General.

§ 2.1.1 Contractor shall fully execute the Work described in the Contract Documents. Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. All Work shall be performed in a good and workmanlike manner in conformity with the terms, conditions, specifications and requirements contained in the Agreement.

§ 2.1.2 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall be date of the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as **Exhibit D**.

§ 2.2 Contract Times

§ 2.2.1 Substantial Completion.

Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.1.1 of this Agreement. Contractor shall achieve Substantial Completion of the entire Work within **335** calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. Contractor shall finally complete the Work and satisfy all conditions to final completion and final payment within **30** calendar days from Substantial Completion, time being of the essence. Contractor shall maintain and achieve all dates and milestones identified in the Progress Schedule.

§ 2.2.2 Liquidated Damages.

Contractor understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if Contractor fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then Contractor shall pay Owner as liquidated damages and not by way of penalty, the following:

- Two Hundred Fifty and No/100 Dollars ($250.00) per calendar day, for the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work within the specified time; and

- Five Hundred and No/100 Dollars ($500.00) per calendar day, after the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work.

In the event Owner withholds or deducts any money or payment due from Contractor for liquidated damages, Contractor shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due Contractor under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements Contractor has with Owner. In the event no money is due the Contractor, then Contractor shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

Contractor expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that Contractor fails to substantially complete the Work in a timely manner. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3 Contractor acknowledges that this Agreement may be assigned to the West Villages Improvement District (WVID). Upon assignment provided in 9.2 of this Agreement, Contractor shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as **Exhibit E** and **Exhibit F**, respectively.

§ 2.4 Contractor shall protect all materials, equipment, completed and partially completed Work from loss and damage. Contractor warrants that all materials and equipment included in the Work will be new, free from defects, in accordance with the Drawings and Specifications, and in compliance with all Laws and Regulations.

§ 2.5 Contractor shall prohibit the use, transportation and possession of firearms, drugs and/or controlled substances, drug paraphernalia and alcoholic beverages at the drilling locations.

§ 2.6 Contractor will be responsible for the work safety and industrial hygiene of its employees. Contractor will comply with all applicable health and safety standards, codes and regulations.

ARTICLE 3. ENGINEER.

The Project was designed by the Engineer and its sub-consultants including the Geoligist. The Geologist will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to it in the Contract Documents. The term "Engineer" as used in the General Conditions shall mean the Geologist.

ARTICLE 4. CONTRACT PRICE – STIPULATED LUMP SUM.

Owner shall pay the Contractor a stipulated lump sum Contract Price in current funds for the performance of the Agreement. The Contract Price shall be Five Million Two Hundred Thousand and No/100 Dollars ($5,200,000). Contractor guarantees that the Contract Price shall not be exceeded except for approved additions as provided in the Contract Documents. The Contract Price shall correspond with Contractor's Schedule of Values (**Exhibit M**) that allocates portions of the Contract Price to milestones for portions of the Work. Contractor shall not re-allocate portions of the Work identified in the Schedule of Values without express written approval of the Owner.

ARTICLE 5. PAYMENT PROCEDURES.

§ 5.1 Pre-Assignment Progress Payments

§ 5.1.1 Prior to any assignment provided in Section 9.2 of this Agreement, and based on Application for Payment submitted to the Geologist, the Owner shall make progress payments on account of the Contract Price to the Contractor as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 5.1.2 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - **Exhibit G** - from Contractor and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment. In lieu of executed releases of lien from Subcontractors and Suppliers the Contractor may submit to the Owner, for Owner's written approval, a consent of surety to progress payment or final payment providing that upon making a payment, the Owner preserves its rights under the bonds provided in Article 6 of this Agreement and that the surety shall agree that any such payment will not relieve the surety of any of its obligations under the bond concerning any such Subcontractors, Suppliers and lienors. Nothing provided herein shall relieve the Contractor from executing the affidavits and releases required by this Agreement.

§ 5.1.3 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within 15 days after the end of each month, Contractor shall submit to the Geologist and Owner, Applications for Payment covering charges for the previous calendar month.

§ 5.1.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- **.1** Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Contract Price allocated to that portion of the Work in the Schedule of Values; less retainage of ten percent (10%)
- **.2** Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;
- **.3** Subtract the aggregate of previous payments made by the Owner; and
- **.4** Subtract amounts, if any, for which the Geologist has withheld or nullified.

§ 5.1.5 Contractor shall not advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 5.1.6 Post-Assignment Progress Payments

Prior to the effective date of the assignment of the Agreement pursuant to Section 9.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding anything to the contrary, upon assigning this Agreement to the WVID pursuant to Section 9.2 herein, Contractor shall provide its Application for Payment to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as **Exhibit H**. The Application for Payment shall include such supporting information as the WVID may reasonably require the Contractor to provide.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the Contractor when:

- **.1** final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;
- **.2** Contractor and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as **Exhibit I**; unless the lien is attributable to the Owner;
- **.3** Contractor having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;
- **.4** Contractor having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;
- **.5** Contractor having delivered to Owner consents of surety; and
- **.6** Contractor having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 5.2.2 If Contractor fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner may, retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due Contractor. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due Contractor from Owner, or (ii) issue a written notice to Contractor reducing the Contract Price by an amount equal to that which Owner is entitled.

ARTICLE 6. INSURANCE and BONDS.

§ 6.1 Insurance.

§ 6.1.1 For all phases of the Project, Contractor shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 6.1.1.1 Contractor shall, for the protection and benefit of the indemnified parties, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of Contractor's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on **Exhibit J**, attached hereto and incorporated herein by reference. Contractor shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the requirements under the Contract Documents.

§ 6.1.1.2 All deductibles under any insurance shall be paid by Contractor.

§ 6.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by Contractor pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 6.1.2 The insurance required by this Section shall be endorsed by Contractor's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to Contractor's insurance:
"The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 6.1.3 Additional Insureds.
The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port, Geologist and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of Contractor's Work, during the Contractor's operations and following the Contractor's completed operations.

§ 6.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or

expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit J shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 6.1.5 Waiver of Subrogation.
Contractor shall waive its right of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by Contractor and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 6.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit Contractor's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 6.1.7 Any aggregate limit under Contractor's liability insurance shall, by endorsement, apply to the Project separately.

6.2 Performance Bond And Payment Bond.
§ 6.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05*, Florida Statutes*, Contractor shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Contract Price and shall be in effect for a full year from the time of final completion of the Project. Contractor acknowledges that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. Contractor shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond.

§ 6.2.1.1 The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 6.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement; and

§ 6.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by Contractor under the Agreement; and

§ 6.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the Contractor under the Contract Documents; and

§ 6.2.1.5 That the Contractor's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 6.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 7. INDEMNIFICATION AND LIMITATION OF LIABILITY.

§ 7.1 Indemnification.

§ 7.1.1 Up to the sum of $1,000,000 which the parties agree is commercially reasonable, Contractor, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage caused by the negligent acts or omissions of Contractor, and other persons employed or utilized by Contractor in the performance of this Agreement or the services performed hereunder.

§ 7.1.2 Upon any assignment of this Agreement to WVID in accordance with Section 9.2 herein, West Villages and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, arising from the act of such assignment to the district.

§ 7.1.3 Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 7.2 Limitation on Governmental Liability.

Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

ARTICLE 8. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and Contractor concerning the Work consist of the following:

§ 8.1 This Agreement.

§ 8.2 Exhibits to this Agreement:

A Drawings: Figure 3-10 Proposed Injection Well System, prepared by Geologist, 1 page

B Specifications: West Villages Injection Well System Construction and Testing Procedures Plan, Class I Industrial Injection Well System, 8 pages; Table GL-1, Proposed Borehole Geophysical Logging Program for the West Villages Injection Well System, dated

1/17/2018, 1 page; Table WQ-1, Standard Water Quality Samplling Parameters at the West Villages Injection Well System, dated 1/18/2018, 1 page.

C WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested

D Form – Notice to Proceed, 1 page

E Resolution 2017-02, West Villages Improvement District

F Resolution 2016-21, West Villages Improvement District

G Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages

H Resolution 2016-22, West Villages Improvement District

I Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages

J Insurance Requirements

K Form of Assignment and Assumption of Contract, with exhibits K-1 through K-3

L Addendum to Agreement Upon Assignment, with exhibits L-1 through L-4

M Schedule of Values – West Villages Class I Industrial Well System Parts 1-4, 6 pages

N FDEP UIC Permit

O Financing And Construction Funding Agreement For Wastewater Treatment Plant, 6 pages

§ 8.3 The documents listed in this Article 8 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits N, B, A, J, E, F, H and C, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 9. MISCELLANEOUS.

§ 9.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§9.2 Except as provided in this Agreement, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of Contractor, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. Contractor and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in **Exhibit K** (as Exhibit K-3), the Addendum to Agreement Upon Assignment attached and included in **Exhibit L**, and such other consents reasonably required to facilitate such assignment.

§ 9.3 Contractor binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 9.4 Contractor shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 9.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 9.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 9.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 9.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 9.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 9.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 9.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 9.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. Contractor understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling

such records, including but not limited to Section 119.0701, Florida Statutes. Contractor acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor shall 1) keep and maintain public records required by the WVID to perform the service; 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in Contractor's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Contractor, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 9.13 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at:
Paul J. Erhardt, President
Brad Soule, Director of Land Development
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamycorp.com
Email: brad.soule@mattamycorp.com

with copy to:	Leslie C. Candes, Esq. 4901 Vineland Road Suite 450 Orlando, Florida 32811 Email: leslie.candes@mattamyhomes.com
If to Contractor, at:	C.W. (Bill) Musselwhite, Senior Vice President Youngquist Brothers, Inc. 15465 Pine Ridge Road Ft. Myers, FL 33908 (239) 489-4444 – office (239) 910-1191 (239) 489-4545 - fax Email: bill@youngquistbrothers.com
If to Geologist, at:	ASRUS, LLC, a Florida limited liability company 13329 North Armenia Avenue Tampa, Florida 33613 Mark McNeal, Chief Executive Officer (813) 264-9100 (813) 765-7942 mmcneal@asrus.net
If to Engineer, at:	Ashley M. Miele, P.E. 1777 Main Street, Suite 200 Sarasota, Florida 34236 Ashley M. Miele, P.E. Email: Ashley.Miele@kimley-horn.com

ARTICLE 10. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the Contractor as provided in Article 16 of the General Conditions.

ARTICLE 11. DISPUTE RESOLUTION.

§ 11.1 Binding Dispute Resolution

For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, *Florida Statutes* and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 11.2. Governing Law, Venue And Jurisdiction. The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CONTRACTOR:

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By: _____
Name: C.W. (Bill) Musselwhite
Title: Sr. Vice President
Date: 5/1/2018
State License No. 11336
Expiration Date: 7/31/19

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Name: Paul Erhardt
Title: Vice President
Date: May 1, 2018

EXHIBIT A
DRAWINGS

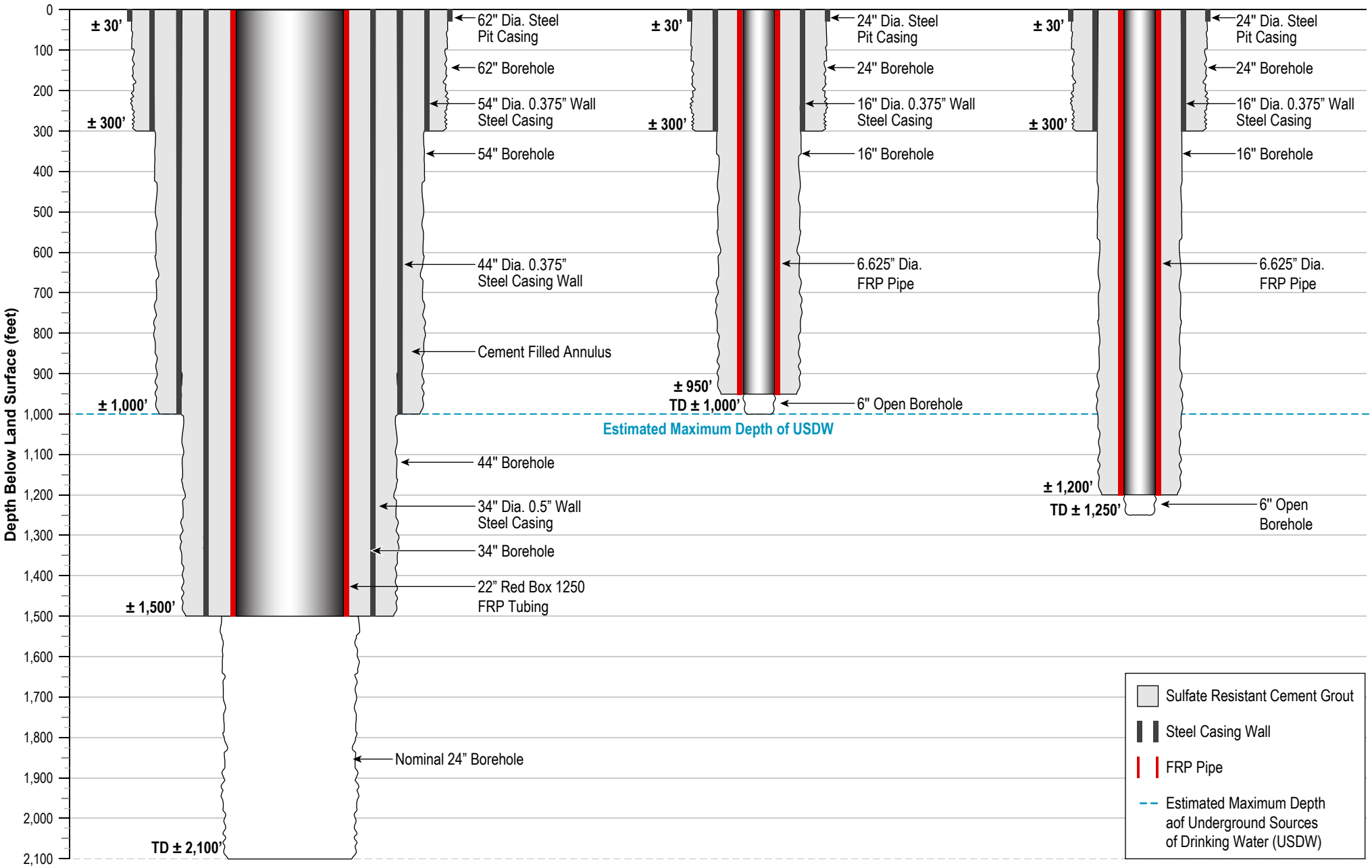


Figure 3-10
Proposed Injection Well System Construction Details
West Villages Improvement District
Class I Injection Well Permit Application

EXHIBIT B
SPECIFICATIONS

Construction and Testing Procedures Plan
West Villages Improvement District
Class I Industrial Injection Well System

The following schedules lay out the sequence of construction and testing for the West Villages Improvement District Class I industrial injection well (IW-1) and monitor wells UZMW-1 and LZMW-1. The injection well will be drilled first to identify monitoring intervals for the two monitor wells.

General Requirements

A. Construct a lined temporary drilling pad at the locations of IW-1 and the monitor wells to contain all fluids during drilling operations.

B. Install four (4) shallow surficial aquifer pad monitor wells around the drilling site and sample for FDEP required parameters weekly during well construction. Initial sampling results shall be submitted to FDEP prior to any drilling for the respective wells.

C. Drilling contractor will transport drilling fluids and cuttings to an FDEP-approved disposal site, which will be approved prior to well drilling activities.

D. Drilling information during all pilot hole drilling will be recorded, including penetration rate, voids, water producing zones, etc., in daily reports prepared during all drilling activities. Engineer's resident inspector and Contractor shall prepare independent daily reports, which will be submitted weekly throughout the drilling period to the FDEP along with a brief summary of the week's activities.

E. Drill cuttings/samples will be collected during pilot hole drilling every 10 feet to the total depth of the well and describe visually in a lithologic log. Hydrogeologic-related information will be included as applicable.

F. Casing depth and total depths for the wells are estimated below in Sections 1, 2, and 3. Actual depths will be determined from test data collected during drilling and be subject to FDEP approval as required by permit.

G. A static temperature log will be performed after each cementing stage of the casings and tubing to confirm the top of cement in conjunction with hard tags.

H. After reverse-air drilling is implemented at a well, measure water level from a known reference point each day prior to starting drilling activities.

I. A mechanical deviation survey will be run in pilot holes and reamed holes drilled for casing other than pit casings at intervals not greater than 90 feet. Any deviation in plumbness greater than 1 degree will be corrected by the drilling Contractor. A mechanical deviation survey will not be run on the open hole sections of the wells.

1 Injection Well IW-1

1.1 Set a nominal 62-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

1.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

1.3 Perform geophysical logging of pilot hole in accordance with Table GL-1.

1.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

1.5 Ream pilot hole to a nominal 62-inch diameter to selected casing depth.

1.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.7 Install 54-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

1.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

1.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to approximately 1,000 feet bls. The goal of this pilot hole will be to penetrate the base of the lowermost USDW and provide data to propose an intermediate casing setting depth deep enough to have two casings extend through the lowermost USDW.

1.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

1.11 Upon reaching the target depth of pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.12 Conduct up to four (4) off-bottom or straddle packer tests within selected zones to bracket the depth of 10,000 mg/L TDS concentration. Collect hydraulic data and water samples during the testing. Analyze the water samples for the List A parameters in Table WQ-1.

1.13 Engineer to select depth for intermediate casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.14 Set drillable bridge plug in pilot hole at intermediate casing setting depth agreed upon with FDEP and back plug pilot hole with cement grout to surface casing setting depth.

1.15 Ream hole to a nominal 54-inch diameter to selected intermediate casing setting depth below the base of the USDW at an estimated depth ranging between approximately 800 and 1,000 feet bls.

1.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.17 Set nominal 44-inch diameter steel casing with a 0.375-inch thick wall at selected depth, and cement in place with ASTM C-150 Type II neat cement.

1.18 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the total well depth between approximately 1,900 and 2,100 feet bls. The pilot hole will be terminated at the depth where anhydrites are encountered over a 20 to 40 feet depth interval or 2,100 feet bls, whichever is less.

1.19 During reverse-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

1.20 During pilot-hole advancement, collect up to five (5) 4-inch diameter, 10-foot length core sections. Cores will target potential confining intervals above the injection zone. Cores will be shipped by the Contractor to a core laboratory for hydraulic testing.

1.21 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.22 Complete up to four (4) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the injection zone. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing. The primary goal of these packer tests will be to characterize hydraulic and water quality profile of the interval, and in particular to evaluate the confinement between the USDW and the injection zone.

1.23 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.24 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement through confining interval above the injection zone.

1.25 Ream hole to a nominal 44-inch diameter to selected final casing setting depth above the injection zone at an estimated depth ranging between approximately 1,100 and 1,500 feet bls.

1.26 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.27 Set nominal 34-inch diameter, ½-inch wall, seamless carbon steel casing to the selected depth and cement in place with ASTM C-150 Type II cement.

The top 200 feet of annulus shall remain un-cemented until performance of the cement bond log (CBL) to assist with tool calibration during logging.

1.28 Conduct CBL of 34-inch diameter steel casing. Cement the top 200 feet after performing the CBL.

1.29 Conduct pressure test on 34-inch diameter final carbon steel casing following final cement stage on well. The pressure test will either utilize the cement plug or an inflatable packer at the base of the injection casing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.30 Ream nominal 24-inch diameter open hole from base of 34-inch diameter casing to total depth of the well using reverse-air drilling, closed circulation techniques.

1.31 Develop open-hole interval using air-lift and pumping and surging well development practices. Develop until clear water is produced from the well and until water quality is acceptable to onsite Engineer.

1.32 Install nominal 22-inch diameter RED BOX® 1250 FRP threaded and coupled injection tubing and cementing packer to a depth of approximately 10 feet above the base of the final casing and cement with ASTM C-150 Type II neat cement. The top 200 feet of annulus shall remain un-cemented until performance of the CBL to assist with tool calibration during logging.

1.33 Conduct CBL of the 22-inch diameter RED BOX® 1250 FRP injection tubing. Cement the top 200 feet after performing the CBL.

1.34 Purge well by pumping at a rate of approximately 1,400 gpm in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until field water quality parameters stabilize. Measure pumping rate with a calibrated flow meter and drawdown with a pressure transducer to evaluate the hydraulics of the injection zone. Collect an injection zone background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1, which include the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin. Collect a 5-gallon unpreserved water sample and a 100mL sample preserved with nitric acid and ship samples to the Florida Geological Survey, Attention: Hydrogeology Administrator, 903 W. Tennessee Street, Tallahassee, FL 32304.

1.35 Complete temporary or permanent wellhead to control fluids in well.

1.36 Conduct pressure test on the nominal 22-inch diameter FRP tubing following final cement stage utilizing an inflatable packer set at the base of the injection

tubing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.37 Provide potable water to the site in sufficient quantity to provide clarity during video camera survey and freshwater bubble at base of final casing for external Radioactive Tracer Survey (RTS).

1.38 Conduct video camera survey of the well from land surface to the completion depth while injecting potable water.

1.39 Conduct caliper log of the well from land surface to the completion depth.

1.40 Conduct a high-resolution temperature log and external RTS to complete the mechanical integrity test (MIT) of the well.

1.41 A request for authorization to perform a short-term injection test will be submitted to FDEP based on a successful MIT. The injection test will be conducted following construction of monitor wells UZMW-1 and LZMW-1, and receipt of authorization from FDEP.

2 Lower Zone Monitor Well

2.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

2.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

2.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

2.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

2.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

2.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

2.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

2.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the top of the confinement above the injection zone identified from the construction and testing of the injection well.

2.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

2.11 Perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

2.12 Complete up to three (3) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the confinement above the injection zone to identify the LZMW-1 monitoring interval. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing to confirm water quality and productivity of the lower monitoring interval.

2.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

2.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

2.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

2.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

2.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

2.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

2.20 Conduct a CBL of the FRP pipe following the required cement curing time.

2.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

2.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the lower monitoring zone. Collect a background formation water sample and submit to NELAC-Certified

laboratory for analysis of the List C parameters in Table WQ-1, which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

2.23 Install pressure transducer in well LZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

3 Upper Zone Monitor Well

3.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

3.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

3.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

3.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

3.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

3.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

3.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

3.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to below the base of the USDW as identified from the construction and testing of the injection well.

3.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

3.11 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

3.12 Complete one (1) off-bottom packer test in the interval to verify UZMW-1 monitoring interval is above the base of the USDW. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in

Table WQ-1 during the packer testing to confirm water quality and productivity of the upper monitoring interval.

3.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

3.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

3.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

3.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

3.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

3.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

3.20 Conduct a CBL of the FRP pipe following the required cement curing time.

3.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

3.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the upper monitoring zone. Collect a background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1 which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

3.23 Install pressure transducer in Well UZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

TABLE GL-1
Proposed Borehole Geophysical Logging Program for the WVID Injection Well System

Well Configuration	Interval	Geophysical Logs								
		Caliper	Natural Gamma	Dual Induction	Video/ BHT Survey	BCS	Fluid Resistivity	Flow-meter	Temperature	SP
Injection Well IW-1										
Pilot Hole (8”-12”)	0 to 300	▲	▲	▲						▲
Reamed Hole (62")	0 to 300	▲	▲							
Pilot Hole (8”-12”)	300 to 1000	▲	▲	▲		▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (54”)	0 to 1000	▲	▲							
Pilot Hole (8”-12”)	1000 to 2100	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (44”)	0 to 1500	▲	▲							
LZMW-1										
Pilot Hole (8”-12”)	0 to 300	▲	▲	▲						▲
Reamed Hole (24”)	0 to 300	▲	▲							
Pilot Hole (8”-12”)	300 to 1250	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16”)	0 to 1200	▲	▲							
UZMW-1										
Pilot Hole (8”-12”)	0 to 300	▲	▲	▲						▲
Reamed Hole (24”)	0 to 300	▲	▲							
Pilot Hole (8”-12”)	300 to 1000	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16”)	0 to 950	▲	▲							

Borehole Compensated Sonic (BCS); Borehole Televiewer (BHT); Static (S); Dynamic (D)

TABLE WQ-1
Standard Water Quality Sampling Parameters at the WVID Injection Well System

List A	*List B*	*List C*
Chloride	All Parameters in List A	Total Kjeldahl Nitrogen
Sulfate	Total Kjeldahl Nitrogen	Ammonia Nitrogen
Total Dissolved Solids	Ammonia Nitrogen	State Primary DWSs[2]
Lab and Field Conductivity		State Secondary DWSs
Field Temperature		Field Dissolved Oxygen
Field pH		Field Turbidity
		Lab/ Field Conductivity
		Field Temperature
		Field pH

[1] Drinking Water Standards (DWSs).

[2] Excluding asbestos, dioxin, acrylamide, and epichlorohydrin

EXHIBIT C

MODIFIED STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT, FORM EJCDC NO. C-700 (REV. 1)(2013 EDITION)



This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.

3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

5. *Bidder*—An individual or entity that submits a Bid to Owner.

6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.

7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.

8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

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regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.

17. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

18. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.

19. *Engineer*—The Geologist named in the Agreement.

20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

21. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

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22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

23. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, payment and performance bonds, real property, or personal property.

24. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.

25. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.

26. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

27. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

28. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

29. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

30. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.

31. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.

32. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

33. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.

34. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

35. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

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submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

36. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

37. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

38. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

39. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

41. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

42. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

43. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

44. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

45. *Unit Price Work*—Work to be paid for on the basis of unit prices.

46. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to

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produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

47. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*:

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*:

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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E. *Furnish, Install, Perform, Provide*:

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

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2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

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C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

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supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

   a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

   b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

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after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. Only preliminary Work, authorized by the Owner shall be performed at the Site prior to commencement of the Contract Times.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or

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requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be an extension in the Contract Times; Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated

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with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its Contract Price and Progress Schedule. Owner acknowledges that the Contract Price and schedule is based on a 24 hour per day, 7 days per week operation. Cooperation will be required to achieve Project objectives.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

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2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

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B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
2. is of such a nature as to require a change in the Drawings or Specifications; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement

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to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's jobsite overhead cost, subject, however, to the following:

   a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

   c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Times with respect to a subsurface or physical condition if:

   a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or

   b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

   c. Contractor failed to give the written notice as required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

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1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

   a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;

   b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;

   c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and

   d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Possible Times Adjustments*:

1. Contractor shall be entitled to an equitable adjustment in the Contract Times to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes a substantial increase in cost to Contractor or time required for, performance of the Work; subject, however, to the following:

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a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and

c. Contractor provided notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, or both, then any such adjustment shall be set forth in a Change Order.

3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the

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costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

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J. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:

1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.
3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

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F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply will all bond requirements after any assignment of the Agreement pursuant to Section 9.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit L to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision; provided, however, that any such redaction by WVID, in the event the Agreement is assigned to it, shall be in compliance with Laws and Regulations.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

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G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.

2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).

3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.

2. claims for damages insured by reasonably available personal injury liability coverage.

3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:

a. Such insurance shall be maintained for three years after final payment.

b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.

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2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.

3. Broad form property damage coverage.

4. Severability of interest.

5. Underground, explosion, and collapse coverage.

6. Personal injury coverage.

7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.

8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

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H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.

2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.

3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.

4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.

5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall

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be no less than the amount of the Contract Price. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out

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of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed 24 hours per day, 7 days per week during all drilling or downhole operations. Working hours for surface work activities are understood to be 12 hours per day 6 days per week, Monday through Saturday 7:00a.m.-7:00p.m.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

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B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) it has a proven record of performance and availability of responsive service; and

4) it is not objectionable to Owner.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is

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complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

   a. shall certify that the proposed substitute item will:

      1) perform adequately the functions and achieve the results called for by the general design,

      2) be similar in substance to that specified, and

      3) be suited to the same use as that specified.

   b. will state:

      1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,

      2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

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3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

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D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

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N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work. Owner shall be responsible for obtaining and paying for the FDEP UIC Injection Well Construction Permit.

7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Villages Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 9.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit L), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

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B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities,

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and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

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7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and

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approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop

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Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

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7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, *Florida Statutes*, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, *Florida Statutes*, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

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7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other

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work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. an itemization of the specific matters to be covered by such authority and responsibility; and

3. the extent of such authority and responsibilities.

B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

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B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

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9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

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10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

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10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

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1. *Change Orders*:

    a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

    b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

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11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Contract Price (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Contract Price:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

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11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the

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parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

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D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – ALLOWANCES; UNIT PRICE WORK

13.01 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the Contract Price to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Any

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unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.02 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities. Upon final completion of the Work, the remaining balance of the Contract Price will be paid, or the total of units adjusted to equal the Contract Price.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

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14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

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C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

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1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on portions of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the

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Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

   b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

   a. to supervise, direct, or control the Work, or

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

   c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

   d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

   e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

   a. the Work is defective, requiring correction or replacement;

   b. the Contract Price has been reduced by Change Orders;

   c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

   d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

   e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

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D. *Payment Becomes Due*:

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

   a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

   b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

   c. Contractor has failed to provide and maintain required bonds or insurance;

   d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

   e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

   f. the Work is defective, requiring correction or replacement;

   g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

   h. the Contract Price has been reduced by Change Orders;

   i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

   j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

   k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

   l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within fifteen (15) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The

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reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor

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may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.

2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*:

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

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inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents;

   b. consent of the surety, if any, to final payment;

   c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

   d. a list of all disputes that Contractor believes are unsettled; and

   e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work.

3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance*:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens

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from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents, or any Laws and Regulations), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
2. correct such defective Work;
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

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ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 20 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 20 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and

2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change

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Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

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ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and

2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or

2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or

3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

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18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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EXHIBIT D
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP

19503 S. West Villages Parkway, #14
Venice, Florida 34293

*{insert date}*, 2018

VIA EMAIL to Bill@youngquistbrothers.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

C.W. (Bill) Musselwhite, Senior Vice President
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Fort Myers, Florida 33908

Re: **NOTICE TO PROCEED**/Commencement of the West Villages Improvement District Class I Industrial Injection Well System and Two Single Zone Monitoring Wells and Other Work Described in the Agreement

Dear Mr. Musselwhite:

Pursuant to Section 2.1.2 of the _____*{insert date}*_____Agreement between {*note if this notice is served after assignment then insert "West Villages Improvement District as assignee of . . ."*}West Villages Construction, LLLP ("Owner") and Youngquist Brothers, Inc. ("Contractor") (the "Agreement"), this letter hereby serves as Owner's **Notice to Proceed** as such term is provided in the Agreement.

Sincerely,

Paul J. Erhardt, President

cc: Mark McNeal, Chief Executive Officer
mmcneal@asrus.net
Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT E
RESOLUTION 2017-02, WEST VILLAGES IMPROVEMENT DISTRICT

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities; and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District; and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A,** is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work

The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation

The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs

Other direct costs include items such as printing, drawings, travel, deliveries, et cetera, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By: _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

_____
By: _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the

governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such

additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the

condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment 1

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

2. Manufacturer or brand, model or specification number of the item.

_____

_____

3. Quantity needed as estimated by CONTRACTOR. _____

4. The price quoted by the supplier for the construction materials identified above.

$_____

5. The sales tax associated with the price quote. $_____

6. Shipping and handling insurance cost. $_____

7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to

conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____

Signature of Authorized Representative of Governmental Entity — Title

West Villages Improvement District — Purchaser's Name

_____

Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

EXHIBIT F
RESOLUTION 2016-21, WEST VILLAGES IMPROVEMENT DISTRICT

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as **Exhibit A** for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida,* as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes*.

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes*. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: **Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended**
Law Implemented: **Ch. 2004-456(3)(2)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.**

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
    (a) District Counsel
    (b) District Engineer
    (c) District Manager
        1. Financial Report
        2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the

existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(q), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual;

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual;

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation; and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(16), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: **Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended**
Law Implemented: **§ 112.08, Fla. Stat.**

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

   Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____ ___, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT G

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that:

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor").

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the Contractor; and (b) the facts stated herein are true and correct.

3. Pursuant to a contract between *{note: after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and Contractor dated _____ (the "Contract"), the Contractor furnised labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____{*insert property description*}_____ (the "Property").

4. The Contractor has submitted an Application for Payment to Owner in connection with this Release.

5. As of the date of this Release, the Contractor has performed, or caused to be performed, all of the work and delivered all material shown on the current Application for Payment submitted to Owner.

6. Upon receipt from Owner the payment in the amount of $_____, the Contractor hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract.

7. Attached hereto as **Exhibit G-1** is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit G-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of Contractor's activities pursuant or ancillary to the performance of its Contract with the Owner.

8. The Contractor hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through

_____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract.

9. The Contractor further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the Contractor hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the Contractor's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit G-1 (if any).

10. This Release constitutes a representation by the Contractor that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The Contractor hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release.

11. This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida.

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida Profit Corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name:_____
(Notarial Seal) NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

Exhibit G-1

EXHIBIT H
RESOLUTION 2016-22, WVID

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent

The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services

All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services

The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped

Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. Improper Invoice
An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request
A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services
All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice
An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request
A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider
Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase
The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor
Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General

Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. Sales Tax

Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers

Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. Proper Invoice for Non-Construction Goods and Services

All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
    a. A complete item description
    b. Quantity purchased
    c. Unit price(s)
    d. Total price (for each item)
    e. Total amount of invoice (all items)
    f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
    a. Itemized description of services performed
    b. The location and date of delivery of the services to the District
    c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
    d. Itemization of other direct, reimbursable costs (including description and amount)
    e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
        i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
        ii. Paid receipt
        iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. **Mailing and Drop Off Address**

_____

c/o _____

_____

_____

2. **Email Address**

_____

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. **Receipt of Proper Invoice**
Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. **Receipt of Improper Invoice**
If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:
   a. On which delivery of personal property is fully accepted by the District;
   b. On which services are completed and accepted by the District;
   c. On which the contracted rental period begins (if applicable); or
   d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. **Rejection of an Improper Invoice**
The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and
   3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. **Payment of Undisputed Portion of Invoice**
If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. **Receipt of Proper Payment Request**
The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. **Receipt and Rejection of Improper Payment Request**
a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:
   1. Be provided in writing;
   2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. **Payment of Undisputed Portion of Payment Request**
If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor
If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services

All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services

All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest

If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

EXHIBIT I

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that:

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the Contractor.

2. Pursuant to a contract dated _____, 20__ (the "Agreement"), between *{note: after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership and Contractor, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the Contractor has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The Contractor represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit I-1** (if any), attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner/Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit I-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the Contractor and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, Contractor hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West

Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8. This Release constitutes a representation by Contractor, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the Contractor hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The Contractor warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9. This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida.

DATED on _____, 2018.

YOUNGQUIST BROTHERS, INC., a Florida corporation

By: _____
Print Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name:_____
NOTARY PUBLIC
(Notarial Seal) Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

Exhibit I-1

EXHIBIT J
INSURANCE REQUIREMENTS

INSURANCE EXHIBIT J

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CONTRACTOR INSURANCE REQUIREMENTS

1. Owner shall purchase and maintain as a project cost the following insurance policies and required coverage with at least the following minimum limits during the term of this Agreement and, as provided herein:
    a. Builders Risk insurance with the following limits and coverages:
        i. One hundred percent (100%) of the full replacement costs of the work, including, but not limited to, all improvements to the property performed by the Contractor, and without any co-insurance requirements or penalties.
        ii. ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.
        iii. iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include Contractor's or any subcontractors machinery, tools or other equipment).
        iv. iv. Contractor shall be responsible for the deductible for the first two losses under the Builders Risk policy except for those losses that are exclusively fortuitous in nature or are deemed to be acts of God.
2. The Contractor shall purchase and maintain and cause all additional contractors and subcontractors to purchase and maintain the following insurance: a. The Contractor shall maintain and shall cause all subcontractors to maintain in effect at all times and at its own expense the following lines of insurance at the sole cost to the Contractor and/or subcontractor;
        i. Workers Compensation: Statutory workers' compensation for all employees of the Contractor and Subcontractors with maximum available limits together with Employers' liability coverage of at least Five Hundred Thousand Dollars ($1,000,000) each accident for bodily injury by accident, Five Hundred Thousand Dollars ($1,000,000) policy limit for bodily injury by disease including death at any time resulting therefrom, and Five Hundred Thousand Dollars ($1,000,000) each employee for bodily injury by disease including death at any time resulting therefrom (including "insurers'" waiver of subrogation rights in favor of Contractor). Such policies maintained by Contractor and Subcontractors shall be endorsed to be primary coverage and any coverage carried by Owner or Indemnitees shall be excess and non-contributory.
        ii. Commercial General Liability: Such coverage shall be the primary general liability for all activities conducted by Contractor and any and all

subcontractor for the project, with limits of not less than Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) general aggregate, or limits carried, whichever is greater, for bodily injury, property damage and personal injury liability on a per project basis (except as otherwise noted), Two Million Dollars ($2,000,000) Products-Completed Operations and Two Million Dollars ($2,000,000) Personal and Advertising Injury, that:

1. Products Completed Operations coverage must be maintained for ten (10) years after completion of the Project or the statute of repose, whichever is greater.
2. Policies shall name Owner, Contractor and each entity's officers, directors, partners, members, employees and agents (collectively, the "Additional Insureds") as additional insureds for claims caused in whole or in part by the Contractor's and/or subcontractor's negligent acts or omissions during the Contractor's and/or Subcontractor's operations or following the Contractor's and/or subcontractor's completed operations.
3. Defense costs shall be outside of the policy limits.
4. Affords thirty (30) days written notice to the Additional Insureds prior to cancellation, non-renewal or amendment (excepting amendments naming additional insureds); and
5. Endorsing that such insurance policy as primary as respects the Additional Insureds, and any claim, loss, or liability arising from the insureds operation, and that any other insurance maintained by the Additional Insureds is excess and non-contributing with the insurance required hereunder.
6. Contractor or any contractors or subcontractors shall be responsible for their own tools and equipment and all associated property insurance.
7. Shall contain no exclusion or restriction for residential development or construction.

iii. Business/Automobile: Business automobile liability covering liability arising out of any auto (including owned, hired, leased and non-owned vehicles, trucks and trailers) with limits of not less than One Million Dollars ($1,000,000) combined single limit each accident, or limits carried, whichever is greater. Defense costs shall be outside of the policy limits. The business automobile liability insurance shall include contractual liability coverage and additional insured status for Owner.

iv. Umbrella/Excess Liability Insurance: A policy with a per occurrence and annual aggregate limit of Five Million Dollars ($5,000,000), or limits carried, whichever is greater, per location/project. Coverage shall be in excess of Commercial General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The Contractor shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other

valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that Contractor procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees. All subcontractors will be required to carry a minimum umbrella limit of One Million Dollars ($1,000,000), or limits set forth within each subcontract agreement, whichever is greater.

v. Contractor's Pollution Liability Insurance: Contractor shall maintain Contractors Pollution insurance in the amount of One Million Dollars and shall cause any subcontractor engaged in Environmental Abatement or Remediation work, or if any subcontractor's work will involve use, treatment, storage, removal or transport of Hazardous Materials at, to or from, the site, subcontractor must obtain Contractor's Pollution Liability or equivalent coverage in an amount not less than One Million Dollars ($1,000,000) each occurrence or terms satisfactory to Owner, including additional insured status for Owner where available and such policy must provide coverage for accidental release of asbestos.

Contractor's and subcontractors' insurance shall be primary and non-contributory with regard to any other insurance that may be available to Owner and any additional insured. All insurance policies, other than worker's compensation, employer's liability, shall name Owner and their respective officers, partners, members, agents, employees, constituents, and affiliate entities as additional insureds for this Project. Any deductibles shall not exceed $25,000, unless Owner approves in writing, and Contractor is responsible for all deductibles and self-insured retentions.

All policies required of Contractor and any subcontractors shall be primary and non-contributory unless otherwise stated herein.

3. Contractor hereby waives, and shall cause all of their respective subcontractors, sub-subcontractors, agents and employees, to waive all causes of action or claims they may have against Owner to the extent such claims or causes of action are covered by any insurance required to be carried by the waiving party hereunder. The Contractor and any subcontractors shall have all such policies appropriately endorsed with waiver of subrogation endorsements; to the extent such endorsements are available on commercially reasonable terms.

   Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on any person or entity for work performed in connection with this Agreement.

4. All such insurance shall be with a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, having a S&P Rating of A- or better, or a rating of A-VIII or better by AM Best, such insurance as will protect Owner from claims set forth above which may arise out of or result from the operations under this Agreement and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

EXHIBIT K
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, _____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID")(West Villages and WVID are each a "Party" and collectively referred to as the "Parties"). Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

W I T N E S S E T H:

WHEREAS, West Villages and YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation ("Contractor") entered into that certain Agreement dated _____ ("Agreement") for the construction of the Class I Injection Well System together with Two Single Zone Monitor Wells and other work more fully described in the Agreement. A copy of the Agreement, including all change orders approved to date, is attached and incorporated as **Exhibit K-1**;

WHEREAS, Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as **Exhibit K-2**;

WHEREAS, West Villages has obtained a release from Contractor acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes,* and waiving any and all claims against the WVID arising from or related to this Assignment, which is attached hereto as **Exhibit K-3**; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith; (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound; (iii) all approved payments to Contractor and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2. As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment.

3. This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida. The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties.

4. This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Print Name:_____
Its:
_____

"WVID"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit K-1
Agreement

See attached

Exhibit K-2
Bonds

See attached

Exhibit K-3
Release

See attached

YOUNGQUIST BROTHERS, INC.
15465 Pine Ridge Road
Fort Myers, Florida 33908

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Youngquist Brothers, Inc., a Florida corporation ("Contractor"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and Contractor dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID"). Contractor acknowledges and accepts such assignment and its validity.

2. Contractor represents and warrants that Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. Contractor represents and warrants that all payments to Contractor and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

   _____{insert description of any outstanding dispute}

4. Contractor hereby releases and waives any claim it may have against West Villages and WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____ day of _____, 2018.

"CONTRACTOR"

_____
Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

_____
Print Name _____

By: _____
Print Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)

_____
Printed Name:_____
NOTARY PUBLIC
Commission No.: _____
State/Commonwealth of _____
My Commission Expires:_____

EXHIBIT L
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the _____ ___, 2018 Agreement between West Villages Construction LLLP and Youngquist Brothers, Inc., a Florida corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit L-1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and Contractor, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the *Florida Statutes*, Contractor shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the *Florida Statutes*. Such bond and/or security shall be for 100% of the Project Contract Price and shall be in effect for a full year from the time of completion of the Project. Contractor agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. Contractor shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, *Florida Statutes*. All payments due and not made within the time prescribed by Section 218.735, *Florida Statutes*, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

5. INDEMNIFICATION. Contractor shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 5.1.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the Contractor may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to Contractor. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to Contractor that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the Contractor shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule I2A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the *Florida Statutes*, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), *Florida Statutes*.

Contractor shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by Contractor to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
_____
Attn: _____

With a copy to:

Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to section 287.135(5), *Florida Statutes*, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-2**. If the Contractor is found to have submitted a false certification as provided in section 287.135(5), *Florida Statutes*, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to

execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit L-4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, *FLORIDA STATUTES*, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

"CONTRACTOR"

_____
Print Name _____

_____
Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

By: _____
Print Name: _____
Title: _____
Date: _____

"WVID"

_____
Print Name _____

_____
Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By: _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit L-1: Agreement
Exhibit L-2: Scrutinized Companies Statement
Exhibit L-3: Public Entity Crimes Statement
Exhibit L-4: Trench Safety Act Statement

EXHIBIT L-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Youngquist Brothers, Inc.
(print name of entity submitting sworn statement)

whose business address is: 15465 Pine Ridge Road, Fort Myers, Florida 33908

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

EXHIBIT L-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), *FLORIDA STATUTES*, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Youngquist Brothers, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), *Florida Statutes*, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., a Florida corporation, who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

EXHIBIT L-4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

_____ Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this ___ _____ day of_____, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total:	

Dated this _____ day of_____, 2017.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____
Its: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

EXHIBIT M
SCHEDULE OF VALUES

West Villages Improvement District Class I Indusrial Injection Well System
PART I - Injection Well IW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
1-1.	Mobilize and Demobilize All Equip. to the IW-1 Well Site to Complete Drilling (in a 24 Hr/Day, 7 Day/Week Schedule) and Testing Activities for IW-1, Complete, Including Field Office, Temporary Drilling Pad, Four Water Table Monitoring Wells, and Temporary On-Site Storage for a Minimum 100,000 Gallons of Water Discharged During Testing Activities.	LS	1	$ 1,800,000.00	$ 1,800,000.00
1-2.	Furnish and Install Nominal 62-Inch Pit Casing, Complete	LS	1	$ 380,000.00	$ 380,000.00
1-3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet bls (Mud Rotary)	FT	300	$ 95.00	$ 28,500.00
	b. 2,100 feet bls (Reverse-air) including drill stem specific capacity test and water sampling	FT	1,800	$ 95.00	$ 171,000.00
1-4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 62-inch Diameter up to 300 feet bls (Mud Rotary)	FT	300	$ 95.00	$ 28,500.00
	b. 54-inch Diameter up to 1,000 feet bls (Reverse-air)	FT	700	$ 95.00	$ 66,500.00
	c. 44-inch Diameter up to 1,500 feet bls (Reverse-air)	FT	500	$ 75.00	$ 37,500.00
	d. 24-inch Diameter up to 2,100 feet bls (Reverse-air)	FT	600	$ 50.00	$ 30,000.00
1-5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	b. 62-inch Reamed Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	c. Pilot Hole 300 to 1,000 feet	EA	1	$ 17,100.00	$ 17,100.00
	d. 54-inch Reamed Hole to 1,000 feet	EA	1	$ 23,750.00	$ 23,750.00
	e. Pilot hole 1,000 to 2,100 feet	EA	1	$ 23,750.00	$ 23,750.00
	d. Reamed Hole to 1,500 feet	EA	1	$ 23,750.00	$ 23,750.00
	f. Completed Well (Video camera survey and caliper log)	EA	1	$ 23,750.00	$ 23,750.00
	g. Temperature Log Following Each Cement Stage	EA	24	$ 285.00	$ 6,840.00
	h. Cement Bond Log on 34-inch Final Steel Casing	EA	1	$ 23,750.00	$ 23,750.00
	i. Cement Bond Log on 22-inch FRP Tubing	EA	1	$ 23,750.00	$ 23,750.00
	j. Temperature log & External Radioactive Tracer Survey for MIT	EA	1	$ 26,600.00	$ 26,600.00
1-6.	Furnish and Install Casing:				
	a. 54-inch Dia. Carbon Steel	FT	300	$ 171.00	$ 51,300.00
	b. 44-inch Dia. Carbon Steel	FT	1,000	$ 143.00	$ 143,000.00
	c. 34-inch Dia. Carbon Steel	FT	1,500	$ 143.00	$ 214,500.00
	d. 22-inch Dia. Red Box 1250 FRP Tubing	FT	1,500	$ 237.00	$ 355,500.00
1-7.	Grout Casing - Grout Carbon Steel Casing and FRP Tubing from Bottom to Land Surface, and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				

	a. 0% Bentonite (Neat)	FT3	8,200	$ 14.00	$ 114,800.00
	b. Up to 6% Bentonite	FT3	13,800	$ 11.00	$ 151,800.00
1-8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	40	$ 308.00	$ 12,320.00
1-9.	Pressure Test Casing - Successfully Complete Pressure Test on Casings, Complete				
	a. Final 34-Inch Dia Steel Casing	LS	1	$ 28,500.00	$ 28,500.00
	b. 22-Inch Red Box 1250 FRP Tubing	LS	1	$ 28,500.00	$ 28,500.00
1-10.	Rock Cores - During Pilot Hole or Open Hole Drilling, Provide 10-Foot Length, 4-Inch Diameter Cores at Selected Intervals, Complete	FT	50	$ 570.00	$ 28,500.00
1-11.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping Test, Complete	EA	8	$ 7,600.00	$ 60,800.00
1-12.	Packer Test Pumping Time Including Development, Complete	HR	140	$ 380.00	$ 53,200.00
1-15.	Development - Develop Injection Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
1-16.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 2,500.00	$ 2,500.00
1-17.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
1-19.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with TableWQ-1 for:				
	a. Water Table Monitoring Wells Weekly Compliance Samples	EA	36	$ 285.00	$ 10,260.00
	b. List A (air-lift and packer test samples)	EA	16	$ 475.00	$ 7,600.00
	c. List B (air-lift and packer test samples)	EA	22	$ 475.00	$ 10,450.00
	d. List C and 5-gal sample for FGS (completed well)	EA	1	$ 3,822.00	$ 3,822.00

TOTAL PART 1 $ 4,054,192.00

PART 2 - Monitor Well LZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
2-1.	Mobilize and Demobilize All Equip. to the LZMW-1 Well Site to complete Drilling (in a 24 Hr/Day, 7 Day/Week Schedule) and Testing Activities for LZMW-1, Complete, Including Temporary Drilling Pad.	LS	1	$ 157,000.00	$ 157,000.00
2-2.	Set Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
2-3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 95.00	$ 28,500.00
	b. 1,250 feet (Reverse-air)	FT	950	$ 95.00	$ 90,250.00
2-4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 24-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 16-inch Diameter to 1,200 feet (Reverse-air)	FT	900	$ 30.00	$ 27,000.00
2-5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,250 feet	EA	1	$ 11,400.00	$ 11,400.00
	d. Reamed 16-inch Hole to 1,200 feet	EA	1	$ 11,400.00	$ 11,400.00

	e. Completed Well (Video Camera Survey and Caliper Log)	EA	1	$ 13,300.00	$ 13,300.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
2-6.	Furnish and Install Casing:				
	a. 16-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 6-inch Dia. FRP to 1,200 feet	FT	1,200	$ 38.00	$ 45,600.00
2-7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	450	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,700	$ 9.00	$ 24,300.00
2-8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	16	$ 308.00	$ 4,928.00
2-9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
2-10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
2-11.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
2-12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	3	$ 4,750.00	$ 14,250.00
2-13.	Packer Test Pumping Time Including Development, Complete	HR	36	$ 380.00	$ 13,680.00
2-14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
2-15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with TableWQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	19	$ 475.00	$ 9,025.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 2 $ 617,704.00

PART 3 - Monitor Well UZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
3-1.	Mobilize and Demobilize All Equip. to the UZMW-1 Well Site to complete Drilling (in a 24 Hr/Day, 7 Day/Week Schedule) and Testing Activities for UZMW-1, Complete, Including Temporary Drilling Pad.	LS	1	$ 125,000.00	$ 125,000.00
3-2.	Furnish and Install Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
3-3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 95.00	$ 28,500.00
	b. 1,000 feet (Reverse-air)	FT	700	$ 95.00	$ 66,500.00
3-4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 24-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 16-inch Diameter to 950 feet (Reverse-air)	FT	650	$ 30.00	$ 19,500.00
3-5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,000 feet	EA	1	$ 11,400.00	$ 11,400.00

	d. Reamed 16-inch Hole to 950 feet	EA	1	$ 11,400.00	$ 11,400.00
	e. Completed Well (Video Camera Survey and Caliper Log)	EA	1	$ 13,300.00	$ 13,300.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
3-6.	Furnish and Install Casing:				
	a. 16-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 6-inch Dia. FRP to 1,200 feet	FT	950	$ 38.00	$ 36,100.00
3-7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	450	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,200	$ 9.00	$ 19,800.00
3-8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	16	$ 308.00	$ 4,928.00
3-9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
3-10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
3-11.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
3-12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	1	$ 4,750.00	$ 4,750.00
3-13.	Packer Test Pumping Time Including Development, Complete	HR	36	$ 380.00	$ 13,680.00
3-14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
3-15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with TableWQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	13	$ 475.00	$ 6,175.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 3 $ 528,104.00

BASE LUMP SUM PRICE $ 5,200,000.00

APPLICABLE TO FINAL PAY REQUEST ONLY - - > RECONCILIATION TO ACHIEVE BASE LUMP SUM PRICE $ -

FINAL LUMP SUM PRICE $ 5,200,000.00

PART 4 - Contingent Item Cost

Below items are not included in the Base Lump Sum Price.
Use of Contingent Item Billing is subjet to Engineer / Owner direction.

	Ream Nom. 34-inch Diameter Hole to 300 feet	FT	300	$ 80.00	$ 24,000.00
	24-Inch Dia. Carbon Steel Casing to 300 feet	FT	300	$ 120.00	$ 36,000.00
	Geophysical Logging (Reamed Hole to 900 ft)	EA	1	$ 11,400.00	$ 11,400.00
	Ream Nominal 24-inch Diameter to 900 feet (Mud Rotary) (Additional to 2.4a)	FT	600	$ 50.00	$ 30,000.00
	16-inch Dia. Carbon Steel to 900 feet (Additional to 2.6a)	FT	600	$ 50.00	$ 30,000.00
	Additional Cement Up to 6% Bentonite (Additional to 2.7b)	FT3	1000	$ 9.00	$ 9,000.00
	Wellhead Allowance	EA	1	$ 100,000.00	$ 100,000.00
	Steel Tariff Adjustment	LS	1	$ 57,250.00	$ 57,251.00
	Delay in Issuance of Full NTP (UIC Permit, and Site access) beyond July 9, 2018	DAY	60	$ 1,500.00	$ 90,000.00

TOTAL PART 4 - CONTINGENT ITEMS $ 387,651.00

Baez, Odette

From: Baez, Odette
Sent: Tuesday, May 01, 2018 4:28 PM
To: Baez, Odette
Subject: FW: Change-Pro Comparison

From: Bill Musselwhite [mailto:bill@youngquistbrothers.com]
Sent: Friday, April 27, 2018 8:47 AM
To: Paul Erhardt <Paul.Erhardt@mattamycorp.com>
Cc: CHarper@foley.com; OBaez@foley.com; Harvey Youngquist <Harvey@YoungquistBrothers.Com>
Subject: Re: Change-Pro Comparison

Paul,
Yes, you are correct July 10 is 1x$1500, July 13 is 4x$1500, etc. The "60" is hypothetical ... we hope it is much less or none.
Bill

Sent from my iPhone

On Apr 27, 2018, at 7:40 AM, Paul Erhardt <Paul.Erhardt@mattamycorp.com> wrote:

> Just to clarify because I find the 60 days confusing – the payment is the actual number of days past July 9th, if any, x the daily rate. In other words if we get the permit on July 10th it is one day delay, and does not trigger an automatic 60 day payment. I assume that is what we all intend and the 60 is just a hypothetical quantity?
>
> I would expect I would sign on Monday when I am back in the office; we are still waiting for the WVID counsel comments, if any. Very likely in the May WVID meeting, or June, we would assign to the WVID.
>
> Paul

EXHIBIT N
FDEP UIC PERMIT

(TO BE PROVIDED UPON RECEIPT)

EXHIBIT O
FINANCING AND CONSTRUCTION FUNDING AGREEMENT
FOR WASTEWATER TREATMENT PLANT

FINANCING AND CONSTRUCTION FUNDING AGREEMENT FOR WASTEWATER TREATMENT PLANT

This **Financing and Construction Funding Agreement** (the "Agreement") is made and entered into this 8th day of March, 2018, by and between:

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government located in the City of North Port, Florida and unincorporated Sarasota County, Florida (the "District"); and

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership with a mailing address of 4901 Vineland Road, Suite 450, Orlando, Florida 32811 (the "Developer").

RECITALS

WHEREAS, the District is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District owns certain real property within its boundaries upon which the Developer planned to construct a wastewater treatment plant and appurtenant facilities (collectively, the "Facility"); and

WHEREAS, the Developer now desires for the District to undertake the construction of the Facility and has or will assign the contract(s) for the design, engineering, and/or construction of the Facility to the District (collectively, the "Construction Contracts"); and

WHEREAS, the District, pursuant to Chapters 179 and 190, *Florida Statutes*, is authorized to issue bonds, levy special assessments, taxes, fees, and other charges as may be necessary in furtherance of the District's infrastructure program, activities and services; and

WHEREAS, in the future, the District expects to access the public bond market to provide for the financing of the Project, however the District currently does not have sufficient funds available to 1) construct the Facility, including construction and any engineering, legal, or other related costs (collectively, the "Project"), or 2) secure the financing of the Project by bonds or other indebtedness ("Financing"); and

WHEREAS, the Developer accordingly desires to fund the District's costs and expenses relative to the financing and construction of the Project in advance of the District's issuance of bonds or other indebtedness for such purposes; and

WHEREAS, the District shall reimburse Developer for funds paid to the District under this Agreement as described in more detail herein.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **PROVISION OF FUNDS.** Developer agrees to make available to the District such monies as are reasonably necessary to proceed with the Financing and construction of the Project prior to the District's issuance of bonds or other indebtedness for such purposes.

A. Within fourteen (14) days of the effective date of this agreement, the Developer shall remit an advance payment of the funds needed for the construction of the Project in the amount of two million dollars ($2,000,000.00), which amount shall be kept in an account separate from the other funds of the District and shall only be utilized for construction costs relative to the Project.

B. Developer agrees to provide to the District any such monies upon receipt of an invoice from the District requesting such funds. Such funds, and all future funds provided pursuant to this Agreement, may be supplied by check, cash, wire transfer or other form of payment deemed satisfactory in the sole discretion of the District as determined by the District Manager. The District agrees to authorize District staff, including the District Engineer, District Manager, and District Counsel to proceed with the work contemplated by this Agreement, and to retain construction contractors, Bond Counsel, Financial Advisor, and any other professional assistance as may be necessary to proceed with the work contemplated by this Agreement. Notwithstanding anything to the contrary, Developer's obligation to fund the amounts described in this Agreement are contingent upon Developer's prior written approval of all such costs and expenses which shall not be unreasonably withheld. Developer shall respond to District's payment requests within five business days from receipt. A failure of Developer to respond to District's payment request within such five business day period shall be deemed Developer's acceptance of District's payment request and Developer shall timely make the requested payment. Notwithstanding anything to the contrary, Developer has approved the existing scope of work and budget for the Project as of the date of this Agreement.

C. Developer and the District agree that all reasonable and necessary fees, costs or other expenses incurred by the District for 1) construction of the Facility, or 2) the services of the District's Engineer, Counsel, Manager, Bond Counsel, Financial Advisor or other professionals, for the work contemplated by this Agreement shall be paid solely from the funds provided by Developer pursuant to this Agreement. Such payments shall be made in accordance with the District's normal invoice and payment procedures. The District agrees that any funds provided by Developer pursuant to this Agreement shall be used solely for fees, costs, and expenses arising from or related to the work contemplated by this Agreement.

D. The District agrees to provide to Developer, on a monthly basis, copies of all invoices, requisitions, or other bills for which payment is to be made from the funds provided by Developer. The District agrees to provide to Developer, monthly, a statement from the District Manager showing funds on deposit prior to payment, payments made, and funds remaining on deposit with the District.

E. Developer agrees to provide funds within fifteen (15) days of receipt of written notification from the District Manager of the need for such funds.

F. In the event that Developer fails to provide any such funds pursuant to this Agreement, the Developer and the District agree the work may be halted until such time as sufficient funds are provided by Developer to ensure payment of the costs, fees or expenses which may be incurred in the performance of such work.

2. TERMINATION. Developer and District agree that Developer may terminate this Agreement without cause by providing ten (10) days written notice of termination to the District. Any such termination by Developer is contingent upon Developer's provision of sufficient funds to cover any and all fees, costs or expenses incurred by the District in connection with the work to be performed under this Agreement as of the date by when notice of termination is received. Developer and the District agree that the District may terminate this Agreement due to a failure of Developer to provide funds in accordance with Section 1 of this Agreement, by providing ten (10) days written notice of termination to Developer; provided, however, that the Developer shall be provided a reasonable opportunity to cure any such failure.

3. CAPITALIZATION.

A. In the event that the District issues bond, notes or other indebtedness to fund the construction of the Project, such indebtedness may only be secured by land within the District that, as of the effective date of this Agreement, is undeveloped. Accordingly, the District shall not issue bonds, notes or other indebtedness that is secured by any lands, and shall not impose special assessments on any lands, relative to the Project that have been platted as of the effective date of this Agreement.

B. The parties agree that all funds provided by Developer pursuant to this Agreement may be reimbursable from proceeds of District financing relative to the Project, and that within forty-five (45) days of receipt of the proceeds by the District of bonds or notes for the Project, the District shall reimburse Developer in full, exclusive of interest, for these advances. In the event that District bonds to finance the Project are not issued within five (5) years of the date of this Agreement, the District shall issue to Developer, or Developer's assignee, a credit towards future District taxes or capital assessments in the amount of all funds provided by Developer pursuant to this Agreement which may be allocated by Developer or Developer's assignee as a credit to land within the District that is undeveloped as of the effective date of this Agreement.

C. Notwithstanding the foregoing, nothing herein shall obligate the District to issue such bonds or other indebtedness to finance the Project. The obligation of the District to reimburse the Developer for monies advanced under this Agreement shall survive any termination of this Agreement. In addition, a default by Developer under this Agreement shall not relieve District's obligation to reimburse Developer for monies advanced under this Agreement and District shall owe such monies regardless of a Developer default, but nothing

shall preclude District from seeking any available remedies of District due to a Developer default as permitted in Paragraph 4. Developer shall have the right to assign any taxes or capital assessments allocated by District under this paragraph to any third party in Developer's sole discretion. Upon notice to District that such taxes or capital assessments have been assigned, District shall provide the assignee written confirmation that the taxes or assessments are in the name of assignee.

4. **DEFAULT.** A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief and/or specific performance.

5. **ENFORCEMENT OF AGREEMENT.** In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees, paralegal fees, expert witness fees and costs for trial, alternative dispute resolution, or appellate proceedings.

6. **AGREEMENT.** This instrument shall constitute the final and complete expression of this Agreement between the parties relating to the subject matter of this Agreement.

7. **AMENDMENTS.** Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.

8. **AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

9. **NOTICES.** All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A.	**If to District:**	West Villages Improvement District 2501-A Burns Road Palm Beach Gardens, Florida 33410 Attn: District Manager
	With a copy to:	Hopping Green & Sams, P.A. 119 S. Monroe Street, Suite 300 Tallahassee, Florida 32301 Attn: Jonathan T. Johnson
B.	**If to Developer:**	West Villages Construction, LLLP

4901 Vineland Road, Suite 450
Orlando, Florida 32811
Attn: Leslie Candes

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

10. **THIRD PARTY BENEFICIARIES.** Except for any party the Developer elects to assign taxes or assessments pursuant to Paragraph 3 (which party shall be a third party beneficiary to this Agreement), this Agreement is solely for the benefit of the parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

11. **ASSIGNMENT.** Neither party may assign this Agreement or any monies to become due hereunder without the prior written approval of the other party.

12. **CONTROLLING LAW; VENUE.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue shall be in Sarasota County, Florida.

13. **EFFECTIVE DATE.** The Agreement shall be effective after execution by both parties hereto and shall remain in effect unless terminated by either of the parties hereto.

14. **PUBLIC RECORDS.** Developer understands and agrees that all documents of any kind provided to the District or to District Staff in connection with the work contemplated under this Agreement are public records and are treated as such in accordance with Florida law.

IN WITNESS WHEREOF, the parties execute this Agreement to be effective the day and year first written above.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: **Thomas Ranch Villages GP, LLC,** a Delaware limited liability company

By: **Thomas Ranch Manager, LLC,** a Delaware limited liability company

Leslie Candes, Vice President

WITNESSES:

Print Name: Jennifer Thomas

Print Name: ALEXANDRA LON-DO

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the May 1, 2018 Agreement between West Villages Construction LLLP and Youngquist Brothers, Inc., a Florida corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit 1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and Contractor, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the *Florida Statutes*, Contractor shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the *Florida Statutes*. Such bond and/or security shall be for 100% of the Project Contract Price and shall be in effect for a full year from the time of completion of the Project. Contractor agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. Contractor shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, *Florida Statutes*. All payments due and not made within the time prescribed by Section 218.735, *Florida Statutes*, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

5. INDEMNIFICATION. Contractor shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 5.1.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the Contractor may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to Contractor. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to Contractor that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the Contractor shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule I2A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the *Florida Statutes*, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), *Florida Statutes*.

Contractor shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by Contractor to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID:	West Villages Improvement District 2501-A Burns Road Palm Beach Gardens, Florida 33410 Attn: Todd Wodraska
With a copy to:	Hopping Green & Sams, P.A. 119 South Monroe, Suite 300 (32301) Post Office Box 6526 Tallahassee, Florida 32314 Attn: Jonathan T. Johnson

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to section 287.135(5), *Florida Statutes*, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit 2**. If the Contractor is found to have submitted a false certification as provided in section 287.135(5), *Florida Statutes*, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit 3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to

execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit 4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, *FLORIDA STATUTES*, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE
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IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

Charles A. Reynolds
Print Name Charles Reynolds
R.J.F.
Print Name Richard J. Finch

"CONTRACTOR"

YOUNGQUIST BROTHERS, INC., a Florida corporation

By:
Print Name: C.W. (Bill) Musselwhite
Title: Sr. Vice President
Date: 9/21/2018

"WVID"

Todd Wodraska
Lindsay Whelan
Print Name Lindsay Whelan

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government
By:
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit 1: Agreement
Exhibit 2: Scrutinized Companies Statement
Exhibit 3: Public Entity Crimes Statement
Exhibit 4: Trench Safety Act Statement

EXHIBIT 1

See attached

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
("Owner")

AND
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
("Contractor")

May 15th 2018

where the basis of payment is a Stipulated Lump Sum Price

AGREEMENT BETWEEN OWNER AND CONTRACTOR
where the basis of payment is a Stipulated Lump Sum Price

THIS AGREEMENT BETWEEN OWNER AND CONTRACTOR where the basis of payment is a Stipulated Sum (the "Agreement" or "Contract") is dated and made on the 11 day of May, 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Youngquist Brothers, Inc., a Florida corporation, (the "Contractor").

Owner Information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@mattamycorp.com

Contractor Information:
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
15465 Pine Ridge Road
Fort Myers, Florida 33908
Contractor's designated representative:
C.W. (Bill) Musselwhite, Senior Vice President
(239) 489-4545 - office
(239) 910-1191- mobile
bill@youngquistbrothers.com

Project Information:
West Villages Improvement District Class I Industrial Injection Well System pursuant to the Drawings (Exhibit A) and Specifications (Exhibit B) prepared by Engineer. The Work includes all equipment, permitting, UIC permit, drilling, exploration, testing for the completion of the Project Work including, without limitation, all injection, return, supply and monitoring wells, two single zone monitoring wells, on-site storage, geophysical logging, casing, grouting, mobilization and demobilization, sampling, jobsite and home office overhead, insurance and bonds.

Engineer and Geologist Information (collectively the "Engineer"):
Engineer:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.
(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

Engineer's sub-consultant (the "Geologist"):
ASRUS, LLC, a Florida limited liability company
13329 North Armenia Avenue
Tampa, Florida 33613
Mark McNeal, Chief Executive Officer
(813) 264-9100
(813) 765-7942
mmcneal@asrus.net

Unless context otherwise requires, or as specifically set forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as Exhibit C.

The Owner and Contractor agree as follows:

TABLE OF ARTICLES

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10 ENUMERATION OF CONTRACT DOCUMENTS
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ARTICLE 1. GENERAL PROVISIONS

§1.1 Contractor has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means

and methods dictated by design parameters in the Contract Documents. Contractor covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner, (ii) provide efficient construction administration, management services and supervision, (iii) provide at all times an adequate supply of workers and materials, and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Drawings, Laws and Regulations, and the Contract Times.

§1.2 Neither Contractor nor any of Contractor's employees shall be deemed employees of the Owner for any purpose whatsoever, Contractor being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

ARTICLE 2. CONTRACTOR RESPONSIBILITIES

§ 2.1 General.
§ 2.1.1 Contractor shall fully execute the Work described in the Contract Documents. Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. All Work shall be performed in a good and workmanlike manner in conformity with the terms, conditions, specifications and requirements contained in the Agreement.

§ 2.1.2 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall be date of the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as Exhibit D.

§ 2.2 Contract Times
§ 2.2.1 Substantial Completion.
Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.1.1 of this Agreement. Contractor shall achieve Substantial Completion of the entire Work within 335 calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. Contractor shall finally complete the Work and satisfy all conditions to final completion and final payment within 30 calendar days from Substantial Completion, time being of the essence. Contractor shall maintain and achieve all dates and milestones identified in the Progress Schedule.

§ 2.2.2 Liquidated Damages.
Contractor understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if Contractor fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then Contractor shall pay Owner as liquidated damages and not by way of penalty, the following:

- Two Hundred Fifty and No/100 Dollars ($250.00) per calendar day, for the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work within the specified time; and
- Five Hundred and No/100 Dollars ($500.00) per calendar day, after the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work.

In the event Owner withholds or deducts any money or payment due from Contractor for liquidated damages, Contractor shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due Contractor under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements Contractor has with Owner. In the event no money is due the Contractor, then Contractor shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

Contractor expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that Contractor fails to substantially complete the Work in a timely manner. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3 Contractor acknowledges that this Agreement may be assigned to the West Villages Improvement District (WVID). Upon assignment provided in 9.2 of this Agreement, Contractor shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as Exhibit E and Exhibit F, respectively.

§ 2.4 Contractor shall protect all materials, equipment, completed and partially completed Work from loss and damage. Contractor warrants that all materials and equipment included in the Work will be new, free from defects, in accordance with the Drawings and Specifications, and in compliance with all Laws and Regulations.

§ 2.5 Contractor shall prohibit the use, transportation and possession of firearms, drugs and/or controlled substances, drug paraphernalia and alcoholic beverages at the drilling locations.

§ 2.6 Contractor will be responsible for the work safety and industrial hygiene of its employees. Contractor will comply with all applicable health and safety standards, codes and regulations.

ARTICLE 3. ENGINEER.

The Project was designed by the Engineer and its sub-consultants including the Geoligist. The Geologist will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to it in the Contract Documents. The term "Engineer" as used in the General Conditions shall mean the Geologist.

ARTICLE 4. CONTRACT PRICE – STIPULATED LUMP SUM.

Owner shall pay the Contractor a stipulated lump sum Contract Price in current funds for the performance of the Agreement. The Contract Price shall be Five Million Two Hundred Thousand and No/100 Dollars ($5,200,000). Contractor guarantees that the Contract Price shall not be exceeded except for approved additions as provided in the Contract Documents. The Contract Price shall correspond with Contractor's Schedule of Values (Exhibit M) that allocates portions of the Contract Price to milestones for portions of the Work. Contractor shall not re-allocate portions of the Work identified in the Schedule of Values without express written approval of the Owner.

ARTICLE 5. PAYMENT PROCEDURES.

§ 5.1 Pre-Assignment Progress Payments

§ 5.1.1 Prior to any assignment provided in Section 9.2 of this Agreement, and based on Application for Payment submitted to the Geologist, the Owner shall make progress payments on account of the Contract Price to the Contractor as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 5.1.2 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - Exhibit G - from Contractor and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment. In lieu of executed releases of lien from Subcontractors and Suppliers the Contractor may submit to the Owner, for Owner's written approval, a consent of surety to progress payment or final payment providing that upon making a payment, the Owner preserves its rights under the bonds provided in Article 6 of this Agreement and that the surety shall agree that any such payment will not relieve the surety of any of its obligations under the bond concerning any such Subcontractors, Suppliers and lienors. Nothing provided herein shall relieve the Contractor from executing the affidavits and releases required by this Agreement.

§ 5.1.3 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within 15 days after the end of each month, Contractor shall submit to the Geologist and Owner, Applications for Payment covering charges for the previous calendar month.

§ 5.1.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Contract Price allocated to that portion of the Work in the Schedule of Values; less retainage of ten percent (10%)
.2 Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;
.3 Subtract the aggregate of previous payments made by the Owner; and
.4 Subtract amounts, if any, for which the Geologist has withheld or nullified.

§ 5.1.5 Contractor shall not advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 5.1.6 Post-Assignment Progress Payments

Prior to the effective date of the assignment of the Agreement pursuant to Section 9.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding anything to the contrary, upon assigning this Agreement to the WVID pursuant to Section 9.2 herein, Contractor shall provide its Application for Payment to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as Exhibit H. The Application for Payment shall include such supporting information as the WVID may reasonably require the Contractor to provide.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the Contractor when:

.1 final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;
.2 Contractor and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as Exhibit I; unless the lien is attributable to the Owner;
.3 Contractor having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;
.4 Contractor having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;
.5 Contractor having delivered to Owner consents of surety; and
.6 Contractor having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 5.2.2 If Contractor fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner may, retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due Contractor. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due Contractor from Owner, or (ii) issue a written notice to Contractor reducing the Contract Price by an amount equal to that which Owner is entitled.

ARTICLE 6. INSURANCE and BONDS.

§ 6.1 Insurance.

§ 6.1.1 For all phases of the Project, Contractor shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 6.1.1.1 Contractor shall, for the protection and benefit of the indemnified parties, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of Contractor's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on Exhibit J, attached hereto and incorporated herein by reference. Contractor shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the requirements under the Contract Documents.

§ 6.1.1.2 All deductibles under any insurance shall be paid by Contractor.

§ 6.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by Contractor pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 6.1.2 The insurance required by this Section shall be endorsed by Contractor's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to Contractor's insurance: "The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 6.1.3 Additional Insureds.

The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port, Geologist and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of Contractor's Work, during the Contractor's operations and following the Contractor's completed operations.

§ 6.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or

expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit J shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 6.1.5 Waiver of Subrogation.
Contractor shall waive its right of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by Contractor and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 6.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit Contractor's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 6.1.7 Any aggregate limit under Contractor's liability insurance shall, by endorsement, apply to the Project separately.

6.2 Performance Bond And Payment Bond.
§ 6.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05, *Florida Statutes*, Contractor shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Contract Price and shall be in effect for a full year from the time of final completion of the Project. Contractor acknowledges that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. Contractor shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond.

§ 6.2.1.1 The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 6.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement; and

§ 6.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by Contractor under the Agreement; and

§ 6.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the Contractor under the Contract Documents; and

§ 6.2.1.5 That the Contractor's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 6.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 7. INDEMNIFICATION AND LIMITATION OF LIABILITY.

§ 7.1 Indemnification.
§ 7.1.1 Up to the sum of $1,000,000 which the parties agree is commercially reasonable, Contractor, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage caused by the negligent acts or omissions of Contractor, and other persons employed or utilized by Contractor in the performance of this Agreement or the services performed hereunder.

§ 7.1.2 Upon any assignment of this Agreement to WVID in accordance with Section 9.2 herein, West Villages and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, arising from the act of such assignment to the district.

§ 7.1.3 Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 7.2 Limitation on Governmental Liability.
Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

ARTICLE 8. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and Contractor concerning the Work consist of the following:

§ 8.1 This Agreement.

§ 8.2 Exhibits to this Agreement:

- A Drawings: Figure 3-10 Proposed Injection Well System, prepared by Geologist, 1 page
- B Specifications: West Villages Injection Well System Construction and Testing Procedures Plan, Class I Industrial Injection Well System, 8 pages; Table GL-1, Proposed Borehole Geophysical Logging Program for the West Villages Injection Well System, dated

1/17/2018, 1 page; Table WQ-1, Standard Water Quality Sampling Parameters at the West Villages Injection Well System, dated 1/18/2018, 1 page.
- C WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested
- D Form – Notice to Proceed, 1 page
- E Resolution 2017-02, West Villages Improvement District
- F Resolution 2016-21, West Villages Improvement District
- G Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages
- H Resolution 2016-22, West Villages Improvement District
- I Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages
- J Insurance Requirements
- K Form of Assignment and Assumption of Contract, with exhibits K-1 through K-3
- L Addendum to Agreement Upon Assignment, with exhibits L-1 through L-4
- M Schedule of Values – West Villages Class I Industrial Well System Parts 1-4, 6 pages
- N FDEP UIC Permit
- O Financing And Construction Funding Agreement For Wastewater Treatment Plant, 6 pages

§ 8.3 The documents listed in this Article 8 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits N, B, A, J, E, F, H and C, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 9. MISCELLANEOUS.

§ 9.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§9.2 Except as provided in this Agreement, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of Contractor, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. Contractor and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in Exhibit K (as Exhibit K-3), the Addendum to Agreement Upon Assignment attached and included in Exhibit L, and such other consents reasonably required to facilitate such assignment.

§ 9.3 Contractor binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 9.4 Contractor shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 9.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 9.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 9.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 9.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 9.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 9.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 9.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 9.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. Contractor understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling

such records, including but not limited to Section 119.0701, Florida Statutes. Contractor acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor shall 1) keep and maintain public records required by the WVID to perform the service, 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in Contractor's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Contractor, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 9.13 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at: Paul J. Erhardt, President
Brad Soule, Director of Land Development
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamycorp.com
Email: brad.soule@mattamycorp.com

with copy to: Leslie C. Candes, Esq.
4901 Vineland Road
Suite 450
Orlando, Florida 32811
Email: leslie.candes@mattamyhomes.com

If to Contractor, at: C.W. (Bill) Musselwhite, Senior Vice President
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Ft. Myers, FL 33908
(239) 489-4444 – office
(239) 910-1191
(239) 489-4545 - fax
Email: bill@youngquistbrothers.com

If to Geologist, at: ASRUS, LLC, a Florida limited liability company
13329 North Armenia Avenue
Tampa, Florida 33613
Mark McNeal, Chief Executive Officer
(813) 264-9100
(813) 765-7942
mmcneal@asrus.net

If to Engineer, at: Ashley M. Miele, P.E.
1777 Main Street, Suite 200
Sarasota, Florida 34236
Ashley M. Miele, P.E.
Email: Ashley.Miele@kimley-horn.com

ARTICLE 10. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the Contractor as provided in Article 16 of the General Conditions.

ARTICLE 11. DISPUTE RESOLUTION.

§ 11.1 Binding Dispute Resolution
For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, *Florida Statutes* and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 11.2. Governing Law, Venue And Jurisdiction. The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CONTRACTOR:

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By: _____
Name: _____
Title: _____
Date: 5/1/2018
State License No. _____
Expiration Date: 7/31/19

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
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By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
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Title: VICE PRESIDENT
Date: MAY 11 2018

EXHIBIT A
DRAWINGS

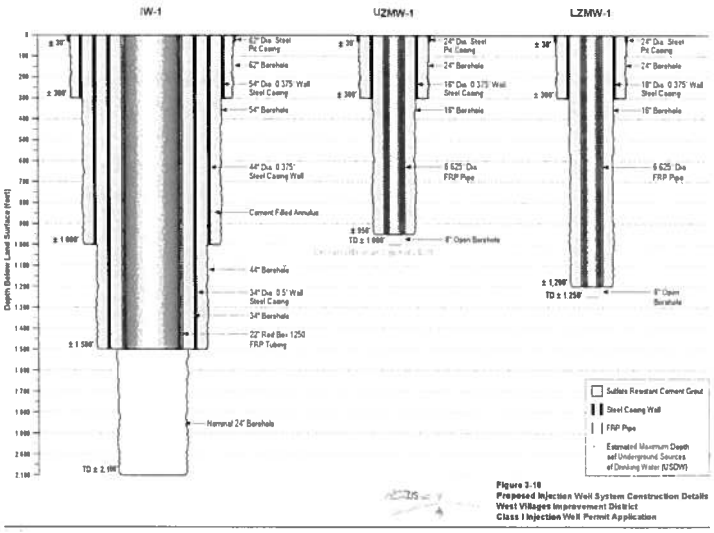


Figure 3-18
Proposed Injection Well System Construction Details
West Villages Improvement District
Class I Injection Well Permit Application

EXHIBIT B
SPECIFICATIONS

Construction and Testing Procedures Plan
West Villages Improvement District
Class I Industrial Injection Well System

The following schedules lay out the sequence of construction and testing for the West Villages Improvement District Class I industrial injection well (IW-1) and monitor wells UZMW-1 and LZMW-1. The injection well will be drilled first to identify monitoring intervals for the two monitor wells.

General Requirements

A. Construct a lined temporary drilling pad at the locations of IW-1 and the monitor wells to contain all fluids during drilling operations.

B. Install four (4) shallow surficial aquifer pad monitor wells around the drilling site and sample for FDEP required parameters weekly during well construction. Initial sampling results shall be submitted to FDEP prior to any drilling for the respective wells.

C. Drilling contractor will transport drilling fluids and cuttings to an FDEP-approved disposal site, which will be approved prior to well drilling activities.

D. Drilling information during all pilot hole drilling will be recorded, including penetration rate, voids, water producing zones, etc., in daily reports prepared during all drilling activities. Engineer's resident inspector and Contractor shall prepare independent daily reports, which will be submitted weekly throughout the drilling period to the FDEP along with a brief summary of the week's activities.

E. Drill cuttings/samples will be collected during pilot hole drilling every 10 feet to the total depth of the well and describe visually in a lithologic log. Hydrogeologic-related information will be included as applicable.

F. Casing depth and total depths for the wells are estimated below in Sections 1, 2, and 3. Actual depths will be determined from test data collected during drilling and be subject to FDEP approval as required by permit.

G. A static temperature log will be performed after each cementing stage of the casings and tubing to confirm the top of cement in conjunction with hard tags.

H. After reverse-air drilling is implemented at a well, measure water level from a known reference point each day prior to starting drilling activities.

I. A mechanical deviation survey will be run in pilot holes and reamed holes drilled for casing other than pit casings at intervals not greater than 90 feet. Any deviation in plumbness greater than 1 degree will be corrected by the drilling Contractor. A mechanical deviation survey will not be run on the open hole sections of the wells.

1 Injection Well IW-1

1.1 Set a nominal 62-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

1.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

1.3 Perform geophysical logging of pilot hole in accordance with Table GL-1.

1.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

1.5 Ream pilot hole to a nominal 62-inch diameter to selected casing depth.

1.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.7 Install 54-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

1.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

1.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to approximately 1,000 feet bls. The goal of this pilot hole will be to penetrate the base of the lowermost USDW and provide data to propose an intermediate casing setting depth deep enough to have two casings extend through the lowermost USDW.

1.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

1.11 Upon reaching the target depth of pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.12 Conduct up to four (4) off-bottom or straddle packer tests within selected zones to bracket the depth of 10,000 mg/L TDS concentration. Collect hydraulic data and water samples during the testing. Analyze the water samples for the List A parameters in Table WQ-1.

1.13 Engineer to select depth for intermediate casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.14 Set drillable bridge plug in pilot hole at intermediate casing setting depth agreed upon with FDEP and back plug pilot hole with cement grout to surface casing setting depth.

1.15 Ream hole to a nominal 34-inch diameter to selected intermediate casing setting depth below the base of the USDW at an estimated depth ranging between approximately 800 and 1,000 feet bls.

1.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.17 Set nominal 44-inch diameter steel casing with a 0.375-inch thick wall at selected depth, and cement in place with ASTM C-150 Type II neat cement.

1.18 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the total well depth between approximately 1,900 and 2,100 feet bls. The pilot hole will be terminated at the depth where anhydrites are encountered over a 20 to 40 feet depth interval or 2,100 feet bls, whichever is less.

1.19 During reverse-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

1.20 During pilot-hole advancement, collect up to five (5) 4-inch diameter, 10-foot length core sections. Cores will target potential confining intervals above the injection zone. Cores will be shipped by the Contractor to a core laboratory for hydraulic testing.

1.21 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.22 Complete up to four (4) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the injection zone. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing. The primary goal of these packer tests will be to characterize hydraulic and water quality profile of the interval, and in particular to evaluate the confinement between the USDW and the injection zone.

1.23 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.24 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement through confining interval above the injection zone.

1.25 Ream hole to a nominal 44-inch diameter to selected final casing setting depth above the injection zone at an estimated depth ranging between approximately 1,100 and 1,300 feet bls.

1.26 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.27 Set nominal 34-inch diameter, ½-inch wall, seamless carbon steel casing to the selected depth and cement in place with ASTM C-150 Type II cement.

The top 200 feet of annulus shall remain un-cemented until performance of the cement bond log (CBL) to assist with tool calibration during logging.

1.28 Conduct CBL of 34-inch diameter steel casing. Cement the top 200 feet after performing the CBL.

1.29 Conduct pressure test on 34-inch diameter final carbon steel casing following final cement stage on well. The pressure test will either utilize the cement plug or an inflatable packer at the base of the injection casing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.30 Ream nominal 24-inch diameter open hole from base of 34-inch diameter casing to total depth of the well using reverse-air drilling, closed circulation techniques.

1.31 Develop open-hole interval using air-lift and pumping and surging well development practices. Develop until clear water is produced from the well and until water quality is acceptable to onsite Engineer.

1.32 Install nominal 22-inch diameter RED BOX® 1250 FRP threaded and coupled injection tubing and cementing packer to a depth of approximately 10 feet above the base of the final casing and cement with ASTM C-150 Type II neat cement. The top 200 feet of annulus shall remain un-cemented until performance of the CBL to assist with tool calibration during logging.

1.33 Conduct CBL of the 22-inch diameter RED BOX® 1250 FRP injection tubing. Cement the top 200 feet after performing the CBL.

1.34 Purge well by pumping at a rate of approximately 1,400 gpm in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until field water quality parameters stabilize. Measure pumping rate with a calibrated flow meter and drawdown with a pressure transducer to evaluate the hydraulics of the injection zone. Collect an injection zone background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1, which include the Primary and Secondary Drinking Water Standards of 62-528.330.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin. Collect a 5-gallon unpreserved water sample and a 100mL sample preserved with nitric acid and ship samples to the Florida Geological Survey, Attention: Hydrogeology Administrator, 903 W. Tennessee Street, Tallahassee, FL 32304.

1.35 Complete temporary or permanent wellhead to control fluids in well.

1.36 Conduct pressure test on the nominal 22-inch diameter FRP tubing following final cement stage utilizing an inflatable packer set at the base of the injection

tubing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.37 Provide potable water to the site in sufficient quantity to provide clarity during video camera survey and freshwater bubble at base of final casing for external Radioactive Tracer Survey (RTS).

1.38 Conduct video camera survey of the well from land surface to the completion depth while injecting potable water.

1.39 Conduct caliper log of the well from land surface to the completion depth.

1.40 Conduct a high-resolution temperature log and external RTS to complete the mechanical integrity test (MIT) of the well.

1.41 A request for authorization to perform a short-term injection test will be submitted to FDEP based on a successful MIT. The injection test will be conducted following construction of monitor wells UZMW-1 and LZMW-1, and receipt of authorization from FDEP.

2 Lower Zone Monitor Well

2.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

2.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

2.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

2.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

2.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

2.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

2.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

2.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the top of the confinement above the injection zone identified from the construction and testing of the injection well.

2.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

2.11 Perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

2.12 Complete up to three (3) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the confinement above the injection zone to identify the LZMW-1 monitoring interval. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing to confirm water quality and productivity of the lower monitoring interval.

2.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

2.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

2.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

2.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

2.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

2.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

2.20 Conduct a CBL of the FRP pipe following the required cement curing time.

2.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

2.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the lower monitoring zone. Collect a background formation water sample and submit to NELAC-Certified

laboratory for analysis of the List C parameters in Table WQ-1, which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

2.23 Install pressure transducer in well LZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

3 Upper Zone Monitor Well

3.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

3.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

3.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

3.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

3.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

3.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

3.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

3.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to below the base of the USDW as identified from the construction and testing of the injection well.

3.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

3.11 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

3.12 Complete one (1) off-bottom packer test in the interval to verify UZMW-1 monitoring interval is above the base of the USDW. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in

Table WQ-1 during the packer testing to confirm water quality and productivity of the upper monitoring interval.

3.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

3.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

3.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

3.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

3.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

3.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

3.20 Conduct a CBL of the FRP pipe following the required cement curing time.

3.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

3.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the upper monitoring zone. Collect a background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1 which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

3.23 Install pressure transducer in Well UZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

TABLE GL-1
Proposed Borehole Geophysical Logging Program for the WVID Injection Well System

Well Configuration	Interval	Geophysical Logs								
		Caliper	Natural Gamma	Dual Induction	Video/ BHT Survey	BCS	Fluid Resistivity	Flow-meter	Temperature	SP
Injection Well IW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (62")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1000	▲	▲	▲		▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (54")	0 to 1000	▲	▲							
Pilot Hole (8 -12")	1000 to 2100	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (44")	0 to 1500	▲	▲							
LZMW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (24")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1250	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16")	0 to 1200	▲	▲							
UZMW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (24")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1000	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16")	0 to 950	▲	▲							

Borehole Compensated Sonic (BCS) Borehole Televiewer (BHT) Static (S) Dynamic (D)

TABLE WQ-1
Standard Water Quality Sampling Parameters at the WVID Injection Well System

List A	List B	List C
Chloride	All Parameters in List A	Total Kjeldahl Nitrogen
Sulfate	Total Kjeldahl Nitrogen	Ammonia Nitrogen
Total Dissolved Solids	Ammonia Nitrogen	State Primary DWSs[2]
Lab and Field Conductivity		State Secondary DWSs
Field Temperature		Field Dissolved Oxygen
Field pH		Field Turbidity
		Lab/ Field Conductivity
		Field Temperature
		Field pH

[1] Drinking Water Standards (DWSs).

[2] Excluding asbestos, dioxin, acrylamide, and epichlorohydrin

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
5. *Bidder*—An individual or entity that submits a Bid to Owner.
6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

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regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
18. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.
19. *Engineer*—The Geologist named in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
21. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

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22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, payment and performance bonds, real property, or personal property.
24. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
25. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.
26. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
27. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
28. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
29. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
30. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
31. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
32. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
34. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
35. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

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submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

36. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

37. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

38. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

39. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

41. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

42. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

43. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

44. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

45. *Unit Price Work*—Work to be paid for on the basis of unit prices.

46. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to

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produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

47. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*:

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*:

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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E. *Furnish, Install, Perform, Provide*:

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

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2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference, Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

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C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

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supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

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after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. Only preliminary Work, authorized by the Owner shall be performed at the Site prior to commencement of the Contract Times.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or

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requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be an extension in the Contract Times; Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated

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with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its Contract Price and Progress Schedule. Owner acknowledges that the Contract Price and schedule is based on a 24 hour per day, 7 days per week operation. Cooperation will be required to achieve Project objectives.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas, provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

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2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise, (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law, and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

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B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement

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to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's jobsite overhead cost, subject, however, to the following:

a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Times with respect to a subsurface or physical condition if:

a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or

b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

c. Contractor failed to give the written notice as required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

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1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
   a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
   b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
   c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
   d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Possible Times Adjustments*:
1. Contractor shall be entitled to an equitable adjustment in the Contract Times to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes a substantial increase in cost to Contractor or time required for, performance of the Work, subject, however, to the following:

a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
c. Contractor provided notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the

costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

J. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:
1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.
3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply will all bond requirements after any assignment of the Agreement pursuant to Section 9.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit L to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision; provided, however, that any such redaction by WVID, in the event the Agreement is assigned to it, shall be in compliance with Laws and Regulations.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

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G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
   a. Such insurance shall be maintained for three years after final payment.
   b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.

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2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

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H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall

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be no less than the amount of the Contract Price. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out

of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed 24 hours per day, 7 days per week during all drilling or downhole operations. Working hours for surface work activities are understood to be 12 hours per day 6 days per week, Monday through Saturday 7:00a.m.-7:00p.m.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
   a. in the exercise of reasonable judgment Engineer determines that:
      1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      3) it has a proven record of performance and availability of responsive service; and
      4) it is not objectionable to Owner.
   b. Contractor certifies that, if approved and incorporated into the Work:
      1) there will be no increase in cost to the Owner or increase in Contract Times; and
      2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is

complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
   a. shall certify that the proposed substitute item will:
      1) perform adequately the functions and achieve the results called for by the general design,
      2) be similar in substance to that specified, and
      3) be suited to the same use as that specified.
   b. will state:
      1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work. Owner shall be responsible for obtaining and paying for the FDEP UIC Injection Well Construction Permit.

7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Villages Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 9.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit L), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities,

and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

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7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and

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approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop

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Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

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7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, *Florida Statutes*, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, *Florida Statutes*, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other

work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
2. an itemization of the specific matters to be covered by such authority and responsibility; and
3. the extent of such authority and responsibilities.

B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements, Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

   a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

   b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Contract Price (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Contract Price:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due, or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the

parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – ALLOWANCES; UNIT PRICE WORK

13.01 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the Contract Price to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Any

unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.02 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities. Upon final completion of the Work, the remaining balance of the Contract Price will be paid, or the total of units adjusted to equal the Contract Price.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
2. there is no corresponding adjustment with respect to any other item of Work; and
3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

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14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
3. by manufacturers of equipment furnished under the Contract Documents;
4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

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C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

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1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated, however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on portions of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the

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Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

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D. *Payment Becomes Due*:

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. the Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. the Contract Price has been reduced by Change Orders;

i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within fifteen (15) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The

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reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor

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may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

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inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
   a. all documentation called for in the Contract Documents;
   b. consent of the surety, if any, to final payment;
   c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
   d. a list of all disputes that Contractor believes are unsettled; and
   e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work.
3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens

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from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents, or any Laws and Regulations), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
2. correct such defective Work;
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

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ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 20 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 20 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change

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Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and
3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

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ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or
2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or
3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

EJCDC® C-700 (Rev. 1), Standard General Conditions of the Construction Contract.
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18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

EJCDC® C-700 (Rev. 1), Standard General Conditions of the Construction Contract.
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EXHIBIT D
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP
19503 S. West Villages Parkway, #14
Venice, Florida 34293

{insert date}, 2018

VIA EMAIL to Bill@youngquistbrothers.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

C. W. (Bill) Musselwhite, Senior Vice President
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Fort Myers, Florida 33908

Re NOTICE TO PROCEED/Commencement of the West Villages Improvement District Class I Industrial Injection Well System and Two Single Zone Monitoring Wells and Other Work Described in the Agreement

Dear Mr. Musselwhite

Pursuant to Section 2.1.2 of the ____ {insert date} _____ Agreement between {note if this notice is served after assignment then insert "West Villages Improvement District as assignee of ____"} West Villages Construction, LLLP ("Owner") and Youngquist Brothers, Inc. ("Contractor") (the "Agreement"), this letter hereby serves as Owner's Notice to Proceed as such term is provided in the Agreement.

Sincerely,

Paul J. Erhardt, President

cc Mark McNeal, Chief Executive Officer
mmcneal@asrus.net
Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT E
RESOLUTION 2017-02, WEST VILLAGES IMPROVEMENT DISTRICT

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4847-0748-5823.8

4813-0556-8352.1

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities; and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District; and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

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NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A**, is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

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determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

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EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work
The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation
The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs
Other direct costs include items such as printing, drawings, travel, deliveries, et ceteras, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By: _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

By: _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment I

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

2. Manufacturer or brand, model or specification number of the item.

_____

_____

3. Quantity needed as estimated by CONTRACTOR. _____
4. The price quoted by the supplier for the construction materials identified above. $_____
5. The sales tax associated with the price quote. $_____
6. Shipping and handling insurance cost. $_____
7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____
Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____
Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____
Signature of Authorized Representative of Governmental Entity Title

West Villages Improvement District _____
Purchaser's Name Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as Exhibit A for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida*, as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes*.

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes*. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
  (a) District Counsel
  (b) District Engineer
  (c) District Manager
    1. Financial Report
    2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the

existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(u), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual;

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual;

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(J)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(2)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District.

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation; and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening, provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

   Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

   Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

   (a) The project is undertaken as repair or maintenance of an existing public facility;

   (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

   (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

   (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening, provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT G
WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

WAIVER AND RELEASE OF LIEN/RIGHT
TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor")

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the Contractor, and (b) the facts stated herein are true and correct

3. Pursuant to a contract between *{note: after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and Contractor dated _____ (the "Contract"), the Contractor furnished labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____*{insert property description}*_____ (the "Property")

4. The Contractor has submitted an Application for Payment to Owner in connection with this Release

5. As of the date of this Release, the Contractor has performed, or caused to be performed, all of the work and delivered all material shown on the current Application for Payment submitted to Owner

6. Upon receipt from Owner the payment in the amount of $_____, the Contractor hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract

7. Attached hereto as Exhibit G-1 is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit G-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of Contractor's activities pursuant or ancillary to the performance of its Contract with the Owner

8. The Contractor hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through _____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract

9. The Contractor further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the Contractor hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the Contractor's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit G-1 (if any)

10. This Release constitutes a representation by the Contractor that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The Contractor hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release

11. This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By _____
Print Name _____
Title _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida Profit Corporation, and that the information contained herein is true and correct to the best of his/her knowledge

(Notarial Seal)

_____
Printed Name _____
NOTARY PUBLIC
Commission No _____
State/Commonwealth of _____
My Commission Expires _____

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent
The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services
All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services
The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped
Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. Improper Invoice
An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request
A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services
All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice
An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request
A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider
Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase
The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor
Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General
Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. Sales Tax
Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers
Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. Proper Invoice for Non-Construction Goods and Services
All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
   a. A complete item description
   b. Quantity purchased
   c. Unit price(s)
   d. Total price (for each item)
   e. Total amount of invoice (all items)
   f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
   a. Itemized description of services performed
   b. The location and date of delivery of the services to the District
   c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
   d. Itemization of other direct, reimbursable costs (including description and amount)
   e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
      i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
      ii. Paid receipt
      iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. Mailing and Drop Off Address

_____
c/o _____
_____
_____

2. Email Address

_____

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. Receipt of Proper Invoice

Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. Receipt of Improper Invoice

If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:

a. On which delivery of personal property is fully accepted by the District;
b. On which services are completed and accepted by the District;
c. On which the contracted rental period begins (if applicable); or
d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. Rejection of an Improper Invoice

The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. Payment of Undisputed Portion of Invoice

If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. Receipt of Proper Payment Request

The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. Receipt and Rejection of Improper Payment Request

a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. Payment of Undisputed Portion of Payment Request

If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor

If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services
All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services
All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest
If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

EXHIBIT I
FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the Contractor.

2. Pursuant to a contract dated _____, 20__ (the "Agreement") between *{note: after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership and Contractor, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the Contractor has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The Contractor represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit I-1** (if any) attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner/Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit I-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the Contractor and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, Contractor hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West

Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8 This Release constitutes a representation by Contractor, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the Contractor hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The Contractor warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9 This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida.

DATED on _____, 2018.

YOUNGQUIST BROTHERS, INC., a Florida corporation

By _____
Print Name _____
Title _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name _____
NOTARY PUBLIC
(Notarial Seal) Commission No. _____
State/Commonwealth of _____
My Commission Expires _____

EXHIBIT J
INSURANCE REQUIREMENTS

INSURANCE EXHIBIT J

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CONTRACTOR INSURANCE REQUIREMENTS

1. Owner shall purchase and maintain as a project cost the following insurance policies and required coverage with at least the following minimum limits during the term of this Agreement and, as provided herein:
   a. Builders Risk insurance with the following limits and coverages:
      i. One hundred percent (100%) of the full replacement costs of the work, including, but not limited to, all improvements to the property performed by the Contractor, and without any co-insurance requirements or penalties.
      ii. ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.
      iii. iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include Contractor's or any subcontractors machinery, tools or other equipment).
      iv. iv. Contractor shall be responsible for the deductible for the first two losses under the Builders Risk policy except for those losses that are exclusively fortuitous in nature or are deemed to be acts of God.
2. The Contractor shall purchase and maintain and cause all additional contractors and subcontractors to purchase and maintain the following insurance: a. The Contractor shall maintain and shall cause all subcontractors to maintain in effect at all times and at its own expense the following lines of insurance at the sole cost to the Contractor and/or subcontractor;
      i. Workers Compensation: Statutory workers' compensation for all employees of the Contractor and Subcontractors with maximum available limits together with Employers' liability coverage of at least Five Hundred Thousand Dollars ($1,000,000) each accident for bodily injury by accident, Five Hundred Thousand Dollars ($1,000,000) policy limit for bodily injury by disease including death at any time resulting therefrom, and Five Hundred Thousand Dollars ($1,000,000) each employee for bodily injury by disease including death at any time resulting therefrom (including "insurers'" waiver of subrogation rights in favor of Contractor). Such policies maintained by Contractor and Subcontractors shall be endorsed to be primary coverage and any coverage carried by Owner or Indemnitees shall be excess and non-contributory.
      ii. Commercial General Liability: Such coverage shall be the primary general liability for all activities conducted by Contractor and any and all

subcontractor for the project, with limits of not less than Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) general aggregate, or limits carried, whichever is greater, for bodily injury, property damage and personal injury liability on a per project basis (except as otherwise noted), Two Million Dollars ($2,000,000) Products-Completed Operations and Two Million Dollars ($2,000,000) Personal and Advertising Injury, that:

1. Products Completed Operations coverage must be maintained for ten (10) years after completion of the Project or the statute of repose, whichever is greater.
2. Policies shall name Owner, Contractor and each entity's officers, directors, partners, members, employees and agents (collectively, the "Additional Insureds") as additional insureds for claims caused in whole or in part by the Contractor's and/or subcontractor's negligent acts or omissions during the Contractor's and/or Subcontractor's operations or following the Contractor's and/or subcontractor's completed operations.
3. Defense costs shall be outside of the policy limits.
4. Affords thirty (30) days written notice to the Additional Insureds prior to cancellation, non-renewal or amendment (excepting amendments naming additional insureds); and
5. Endorsing that such insurance policy as primary as respects the Additional Insureds, and any claim, loss, or liability arising from the insureds operation, and that any other insurance maintained by the Additional Insureds is excess and non-contributing with the insurance required hereunder.
6. Contractor or any contractors or subcontractors shall be responsible for their own tools and equipment and all associated property insurance.
7. Shall contain no exclusion or restriction for residential development or construction.

iii. Business/Automobile: Business automobile liability covering liability arising out of any auto (including owned, hired, leased and non-owned vehicles, trucks and trailers) with limits of not less than One Million Dollars ($1,000,000) combined single limit each accident, or limits carried, whichever is greater. Defense costs shall be outside of the policy limits. The business automobile liability insurance shall include contractual liability coverage and additional insured status for Owner.

iv. Umbrella/Excess Liability Insurance: A policy with a per occurrence and annual aggregate limit of Five Million Dollars ($5,000,000), or limits carried, whichever is greater, per location/project. Coverage shall be in excess of Commercial General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The Contractor shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other

valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that Contractor procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees. All subcontractors will be required to carry a minimum umbrella limit of One Million Dollars ($1,000,000), or limits set forth within each subcontract agreement, whichever is greater.

v. Contractor's Pollution Liability Insurance: Contractor shall maintain Contractors Pollution insurance in the amount of One Million Dollars and shall cause any subcontractor engaged in Environmental Abatement or Remediation work, or if any subcontractor's work will involve use, treatment, storage, removal or transport of Hazardous Materials at, to or from, the site, subcontractor must obtain Contractor's Pollution Liability or equivalent coverage in an amount not less than One Million Dollars ($1,000,000) each occurrence or terms satisfactory to Owner, including additional insured status for Owner where available and such policy must provide coverage for accidental release of asbestos.

Contractor's and subcontractors' insurance shall be primary and non-contributory with regard to any other insurance that may be available to Owner and any additional insured. All insurance policies, other than worker's compensation, employer's liability, shall name Owner and their respective officers, partners, members, agents, employees, constituents, and affiliate entities as additional insureds for this Project. Any deductibles shall not exceed $25,000, unless Owner approves in writing, and Contractor is responsible for all deductibles and self-insured retentions.

All policies required of Contractor and any subcontractors shall be primary and non-contributory unless otherwise stated herein.

3. Contractor hereby waives, and shall cause all of their respective subcontractors, sub-subcontractors, agents and employees, to waive all causes of action or claims they may have against Owner to the extent such claims or causes of action are covered by any insurance required to be carried by the waiving party hereunder. The Contractor and any subcontractors shall have all such policies appropriately endorsed with waiver of subrogation endorsements, to the extent such endorsements are available on commercially reasonable terms.

   Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on any person or entity for work performed in connection with this Agreement.

4. All such insurance shall be with a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, having a S&P Rating of A- or better, or a rating of A-VIII or better by AM Best, such insurance as will protect Owner from claims set forth above which may arise out of or result from the operations under this Agreement and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

EXHIBIT K
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, _____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID") (West Villages and WVID are each a "Party" and collectively referred to as the "Parties"). Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

WITNESSETH

WHEREAS, West Villages and YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation ("Contractor") entered into that certain Agreement dated _____ ("Agreement") for the construction of the Class I Injection Well System together with Two Single Zone Monitor Wells and other work more fully described in the Agreement. A copy of the Agreement, including all change orders approved to date, is attached and incorporated as Exhibit K-1.

WHEREAS, Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as Exhibit K-2.

WHEREAS, West Villages has obtained a release from Contractor acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising from or related to this Assignment, which is attached hereto as Exhibit K-3; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith, (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound, (iii) all approved payments to Contractor and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2 As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment

3 This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties

4 This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company Its General Partner

By THOMAS RANCH MANAGER, LLC, a Delaware limited liability company Its Manager

By _____
Print Name _____
Its _____

Print Name _____

Print Name _____

"WVID"

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

Print Name _____

Print Name _____

By _____
Print Name Martin P Black
Its Chairperson, Board of Supervisors

Exhibit K-1
Agreement

See attached

Exhibit K-2
Bonds

See attached

Exhibit K-3
Release

See attached

YOUNGQUIST BROTHERS, INC
15465 Pine Ridge Road
Fort Myers, Florida 33908

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Youngquist Brothers, Inc., a Florida corporation ("Contractor"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and Contractor dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID") Contractor acknowledges and accepts such assignment and its validity.

2. Contractor represents and warrants that Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. Contractor represents and warrants that all payments to Contractor and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

_____{insert description of any outstanding dispute}

4. Contractor hereby releases and waives any claim it may have against West Villages and WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____day of _____, 2018.

"CONTRACTOR"

_____
Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

_____
Print Name _____

By _____
Print Name _____
Title _____
Date _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)

_____
Printed Name _____
NOTARY PUBLIC
Commission No. _____
State/Commonwealth of _____
My Commission Expires _____

EXHIBIT L
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the _____ ___, 2018 Agreement between West Villages Construction LLLP and Youngquist Brothers, Inc., a Florida corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit L-1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and Contractor, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS, NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the *Florida Statutes*, Contractor shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the *Florida Statutes*. Such bond and/or security shall be for 100% of the Project Contract Price and shall be in effect for a full year from the time of completion of the Project. Contractor agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. Contractor shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however) to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, *Florida Statutes*. All payments due and not made within the time prescribed by Section 218.735, *Florida Statutes*, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

5. INDEMNIFICATION. Contractor shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 5.1.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the Contractor may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to Contractor. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to Contractor that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the Contractor shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule 12A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

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shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works, (2) the vendor's invoice will be issued directly to the WVID, (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds, (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor, and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the *Florida Statutes*, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), *Florida Statutes*.

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Contractor shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or proprietary information provided by Contractor to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
Attn _____

With a copy to:
Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to section 287.135(5), *Florida Statutes*, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-2**. If the Contractor is found to have submitted a false certification as provided in section 287.135(5), *Florida Statutes*, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to

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execute such sworn statement The statements shall be substantially in the form of the attached Exhibit L-4

15. CONSTRUCTION DEFECTS PURSUANT TO SECTION 558 005, *FLORIDA STATUTES*, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum

"CONTRACTOR"

Print Name _____

Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

By _____
Print Name _____
Title _____
Date _____

"WVID"

Print Name _____

Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By _____
Print Name Martin P Black
Its Chairperson, Board of Supervisors

Exhibit L-1 Agreement
Exhibit L-2 Scrutinized Companies Statement
Exhibit L-3 Public Entity Crimes Statement
Exhibit L-4 Trench Safety Act Statement

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EXHIBIT L-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Youngquist Brothers, Inc
(print name of entity submitting sworn statement)

whose business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4842-9342-1152 1

EXHIBIT L-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), *FLORIDA STATUTES*, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Youngquist Brothers, Inc. ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor

3. Contractor's business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement _____)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), *Florida Statutes*, means

a. A predecessor or successor of a person convicted of a public entity crime, or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

4842-8342-1152 1

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

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

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989. AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

4842-8342-1152 1

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., a Florida corporation, who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4842-8342-1152 1

EXHIBIT L-4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C F R.s. 1926 650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price

This form must be certified in the presence of a notary public or other officer authorized to administer oaths

CERTIFICATION

1. I understand that Chapter 90 96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F R s 1926 650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project

2. The estimated cost imposed by compliance with The Trench Safety Act will be

_____Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price

Dated this _____ day of_____, 2018

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price

This form must be certified in the presence of a notary public or other officer authorized to administer oaths

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total	

Dated this _____ day of_____, 2017

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used

EXHIBIT M
SCHEDULE OF VALUES

West Villages Improvement District Class I Industrial Injection Well System
PART 1 - Injection Well IW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
1.1	Mobilize and Demobilize All Equip. to the IW-1 Well Site to Complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for IW-1 Complete. Including Field Office Temporary Drilling Pad. Four Water Table Monitoring Wells, and Temporary On Site Storage for a Minimum 105,000 Gallons of Water Discharged During Testing Activities	LS	1	$ 1,600,000.00	$ 1,600,000.00
1.2.	Furnish and Install Nominal 82-Inch Pit Casing, Complete	LS	1	$ 367,500.00	$ 367,500.00
1.3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet bls (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 2,100 feet bls (Reverse-Air) including drill stem specific capacity test and water sampling	FT	1,500	$ 93.00	$ 171,000.00
1.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 62-inch Diameter up to 300 feet bls (Mud Rotary)	FT	300	$ 85.55	$ 23,300.00
	b. 84-inch Diameter up to 1,000 feet bls (Reverse-Air)	FT	700	$ 95.00	$ 66,500.00
	c. 44-inch Diameter up to 1,500 feet bls (Reverse-Air)	FT	500	$ 75.00	$ 37,500.00
	d. 34-inch Diameter up to 2,100 feet bls (Reverse-Air)	FT	600	$ 50.00	$ 30,000.00
1.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	b. 62-inch Reamed Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	c. Pilot Hole 300 to 1,000 feet	EA	1	$ 17,100.00	$ 17,100.00
	d. 84-inch Reamed Hole to 1,000 feet	EA	1	$ 23,750.00	$ 23,750.00
	e. Pilot hole 1,000 to 2,100 feet	EA	1	$ 23,750.00	$ 23,750.00
	f. Reamed Hole to 1,500 feet	EA	1	$ 23,750.00	$ 23,750.00
	g. Compleated Well (Video camera survey and caliper log)	EA	1	$ 23,750.00	$ 23,750.00
	h. Temperature Log Following Each Cement Stage	EA	24	$ 359.00	$ 8,616.00
	i. Cement Bond Log on 34-inch Final Steel Casing	EA	1	$ 23,750.00	$ 23,750.00
	j. Cement Bond Log on 12-inch FRP Casing	EA	1	$ 23,750.00	$ 23,750.00
	Temperature and External Radioactive Tracer Survey for MIT	EA	1	$ 28,500.00	$ 28,500.00
1.6.	Furnish and Install Casing:				
	a. 34-inch Dia. Carbon Steel	FT	300	$ 171.00	$ 51,300.00
	b. 44-inch Dia. Carbon Steel	FT	1,000	$ 143.00	$ 143,000.00
	c. 34-inch Dia. Carbon Steel	FT	1,500	$ 142.00	$ 214,500.00
	d. 12-inch Dia. Red Set 1,257 FRP Tubing	FT	1,800	$ 231.00	$ 397,800.00
1.7.	Grout Casing - Grout Carbon Steel Casing and FRP Tubing from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	8,200	$ 14.00	$ 114,800.00
	b. Up to 6% Bentonite	FT3	13,800	$ 11.00	$ 151,800.00
1.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	43	$ 308.00	$ 12,320.00
1.9.	Pressure Test Casing - Successfully Complete Pressure Test on Casings, Complete				
	a. Final 34-inch Dia Steel Casing	LS	1	$ 28,500.00	$ 28,500.00
	b. 12-inch Red Set 1250 FRP Tubing	LS	1	$ 28,500.00	$ 28,500.00
1.10.	Rock Cores - During Pilot Hole or Open Hole Drilling, Provide 10 Foot Length, 4 Inch Diameter Cores at Selected Intervals, Complete	FT	50	$ 570.00	$ 28,500.00
1.11.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping Test, Complete	EA	6	$ 7,600.00	$ 60,800.00
1.12.	Packer Test Pumping Time Including Development, Complete	HR	162	$ 380.00	$ 61,300.00
1.13.	Redevelopment - Develop Injection Well by Air Lifting, Complete	HR	9	$ 380.00	$ 3,042.00
1.14.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 2,500.00	$ 2,500.00
1.17.	(Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
1.18.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. Water Table Monitoring Wells Weekly Compliance Samples	EA	36	$ 285.00	$ 10,260.00
	b. List A - air lift and packer test samples	EA	18	$ 475.00	$ 7,900.00
	c. List B - air-lift and packer test samples	EA	32	$ 475.00	$ 15,450.00
	d. List C and B-qal samples for FGS (completed well)	EA	1	$ 3,822.00	$ 3,822.00

TOTAL PART 1 $ 4,054,192.00

PART 2 - Monitor Well LZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
2.1.	Mobilize and Demobilize All Equip. to the LZMW-1 Well Site to complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for LZMW-1. Complete Including Temporary Drilling Pad.	LS	1	$ 157,000.00	$ 157,000.00
2.2.	Set Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
2.3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 1,250 feet (Reverse-Air)	FT	950	$ 85.00	$ 80,750.00
2.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 34-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Diameter to 1,200 feet (Reverse-Air)	FT	900	$ 30.00	$ 27,000.00
2.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction, and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,250 feet	EA	1	$ 11,400.00	$ 11,400.00
	d. Reamed 18-inch Hole to 1,200 feet	EA	1	$ 11,400.00	$ 11,400.00

	e. Completed Well - Video Camera Survey and Caliper Log	EA	1	$ 11,400.00	$ 11,400.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
2.6.	Furnish and Install Casing:				
	a. 34-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Dia. FRP to 1,200 feet	FT	950	$ 38.00	$ 36,100.00
2.7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	430	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,300	$ 8.00	$ 18,800.00
2.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	18	$ 308.00	$ 4,928.00
2.9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
2.10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
2.11.	Temporary Wellhead - Complete Wellhead in Accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
2.12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	3	$ 4,750.00	$ 14,250.00
2.13.	Packer Test Pumping Time including Development, Complete	HR	36	$ 380.00	$ 13,680.00
2.14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
2.15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	18	$ 475.00	$ 8,550.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 2 $ 617,704.00

PART 3 - Monitor Well UZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
3.1.	Mobilize and Demobilize All Equip. to the UZMW-1 Well Site to complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for UZMW-1. Complete. Including Temporary Drilling Pad.	LS	1	$ 123,000.00	$ 123,000.00
3.2.	Furnish and Install Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
3.3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 1,000 feet (Reverse-air)	FT	700	$ 85.00	$ 59,500.00
3.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 34-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Diameter to 950 feet (Reverse-air)	FT	650	$ 30.00	$ 19,500.00
3.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,000 feet	EA	1	$ 11,400.00	$ 11,400.00

	d. Reamed 18-inch Hole to 950 feet	EA	1	$ 11,400.00	$ 11,400.00
	e. Completed Well (Video Camera Survey and Caliper Log)	EA	1	$ 11,400.00	$ 11,400.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
3.6.	Furnish and Install Casing:				
	a. 34-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Dia. FRP to 1,200 feet	FT	950	$ 38.00	$ 36,100.00
3.7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	430	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,300	$ 8.00	$ 18,800.00
3.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	18	$ 308.00	$ 4,928.00
3.9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
3.10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
3.11.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
3.12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	1	$ 4,750.00	$ 4,750.00
3.13.	Packer Test Pumping Time including Development, Complete	HR	36	$ 380.00	$ 13,680.00
3.14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
3.15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	13	$ 475.00	$ 6,175.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 3 $ 528,104.00

BASE LUMP SUM PRICE $ 5,200,000.00

APPLICABLE TO FINAL PAY REQUEST ONLY --> RECONCILIATION TO ACHIEVE BASE LUMP SUM PRICE $ -

FINAL LUMP SUM PRICE $ 5,200,000.00

PART 4 - Contingent Item Cost

Below items are not included in the Base Lump Sum Price.
Use of Contingent Item Bidding is subject to Engineer / Owner direction.

Ream Nom. 34-inch Diameter Hole to 300 feet		FT	300	$	80.00	$ 24,000.00
24-inch Dia. Carbon Steel Casing to 300 feet		FT	300	$	120.00	$ 36,000.00
Geophysical Logging (Reamed Hole to 900 ft)		EA	1	$	11,450.00	$ 11,450.00
Ream Nominal 24 inch Diameter to 900 feet (Mud Rotary)	(Additional to 2.4a)	FT	900	$	50.00	$ 30,000.00
16 inch Dia. Carbon Steel to 900 feet	(Additional to 2.5a)	FT	900	$	50.00	$ 30,000.00
Additional Cement Up to 8% Bentonite	(Additional to 2.7b)	FT3	1000	$	8.00	$ 8,000.00
Wellhead Allowance		EA	1	$	100,000.00	$ 100,000.00
Steel Tariff Adjustment		LS	1	$	57,250.00	$ 57,251.00
Delay in Issuance of Full NTP (UIC Permit, and Site access) beyond July 9, 2018		DAY	60	$	1,500.00	$ 90,000.00

TOTAL PART 4 - CONTINGENT ITEMS $ 387,651.00

Baez, Odette

From: Baez, Odette
Sent: Tuesday, May 01, 2018 4:28 PM
To: Baez, Odette
Subject: FW: Change-Pro Comparison

From: Bill Musselwhite [mailto:bill@youngquistbrothers.com]
Sent: Friday, April 27, 2018 8:47 AM
To: Paul Erhardt <Paul.Erhardt@mattamycorp.com>
Cc: CHarper@foley.com; OBaez@foley.com; Harvey Youngquist <Harvey@YoungquistBrothers.Com>
Subject: Re: Change-Pro Comparison

Paul,
Yes, you are correct July 10 is 1x$1500, July 13 is 4x$1500, etc. The "60" is hypothetical ... we hope it is much less or none.
Bill

Sent from my iPhone

On Apr 27, 2018, at 7:40 AM, Paul Erhardt <Paul.Erhardt@mattamycorp.com> wrote:

> Just to clarify because I find the 60 days confusing -- the payment is the actual number of days past July 9th, if any, x the daily rate. In other words if we get the permit on July 10th it is one day delay, and does not trigger an automatic 60 day payment. I assume that is what we all intend and the 60 is just a hypothetical quantity?
>
> I would expect I would sign on Monday when I am back in the office; we are still waiting for the WVID counsel comments, if any. Very likely in the May WVID meeting, or June, we would assign to the WVID.
>
> Paul

1

EXHIBIT N
FDEP UIC PERMIT

(TO BE PROVIDED UPON RECEIPT)

EXHIBIT O
FINANCING AND CONSTRUCTION FUNDING AGREEMENT FOR WASTEWATER TREATMENT PLANT

FINANCING AND CONSTRUCTION FUNDING AGREEMENT FOR WASTEWATER TREATMENT PLANT

This Financing and Construction Funding Agreement (the "Agreement") is made and entered into this 8th day of March, 2018, by and between:

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government located in the City of North Port, Florida and unincorporated Sarasota County, Florida (the "District"); and

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership with a mailing address of 4901 Vineland Road, Suite 450, Orlando, Florida 32811 (the "Developer").

RECITALS

WHEREAS, the District is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District owns certain real property within its boundaries upon which the Developer planned to construct a wastewater treatment plant and appurtenant facilities (collectively, the "Facility"), and

WHEREAS, the Developer now desires for the District to undertake the construction of the Facility and has or will assign the contract(s) for the design, engineering, and/or construction of the Facility to the District (collectively, the "Construction Contracts"); and

WHEREAS, the District, pursuant to Chapters 179 and 190, *Florida Statutes*, is authorized to issue bonds, levy special assessments, taxes, fees, and other charges as may be necessary in furtherance of the District's infrastructure program, activities and services; and

WHEREAS, in the future, the District expects to access the public bond market to provide for the financing of the Project, however the District currently does not have sufficient funds available to 1) construct the Facility, including construction and any engineering, legal, or other related costs (collectively, the "Project"), or 2) secure the financing of the Project by bonds or other indebtedness ("Financing"); and

WHEREAS, the Developer accordingly desires to fund the District's costs and expenses relative to the financing and construction of the Project in advance of the District's issuance of bonds or other indebtedness for such purposes; and

WHEREAS, the District shall reimburse Developer for funds paid to the District under this Agreement as described in more detail herein.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. PROVISION OF FUNDS. Developer agrees to make available to the District such monies as are reasonably necessary to proceed with the Financing and construction of the Project prior to the District's issuance of bonds or other indebtedness for such purposes.

A. Within fourteen (14) days of the effective date of this agreement, the Developer shall remit an advance payment of the funds needed for the construction of the Project in the amount of two million dollars ($2,000,000.00), which amount shall be kept in an account separate from the other funds of the District and shall only be utilized for construction costs relative to the Project.

B. Developer agrees to provide to the District any such monies upon receipt of an invoice from the District requesting such funds. Such funds, and all future funds provided pursuant to this Agreement, may be supplied by check, cash, wire transfer or other form of payment deemed satisfactory in the sole discretion of the District as determined by the District Manager. The District agrees to authorize District staff, including the District Engineer, District Manager, and District Counsel to proceed with the work contemplated by this Agreement, and to retain construction contractors, Bond Counsel, Financial Advisor, and any other professional assistance as may be necessary to proceed with the work contemplated by this Agreement. Notwithstanding anything to the contrary, Developer's obligation to fund the amounts described in this Agreement are contingent upon Developer's prior written approval of all such costs and expenses which shall not be unreasonably withheld. Developer shall respond to District's payment requests within five business days from receipt. A failure of Developer to respond to District's payment request within such five business day period shall be deemed Developer's acceptance of District's payment request and Developer shall timely make the requested payment. Notwithstanding anything to the contrary, Developer has approved the existing scope of work and budget for the Project as of the date of this Agreement.

C. Developer and the District agree that all reasonable and necessary fees, costs or other expenses incurred by the District for 1) construction of the Facility, or 2) the services of the District's Engineer, Counsel, Manager, Bond Counsel, Financial Advisor or other professionals, for the work contemplated by this Agreement shall be paid solely from the funds provided by Developer pursuant to this Agreement. Such payments shall be made in accordance with the District's normal invoice and payment procedures. The District agrees that any funds provided by Developer pursuant to this Agreement shall be used solely for fees, costs, and expenses arising from or related to the work contemplated by this Agreement.

D. The District agrees to provide to Developer, on a monthly basis, copies of all invoices, requisitions, or other bills for which payment is to be made from the funds provided by Developer. The District agrees to provide to Developer, monthly, a statement from the District Manager showing funds on deposit prior to payment, payments made, and funds remaining on deposit with the District.

E. Developer agrees to provide funds within fifteen (15) days of receipt of written notification from the District Manager of the need for such funds.

F. In the event that Developer fails to provide any such funds pursuant to this Agreement, the Developer and the District agree the work may be halted until such time as sufficient funds are provided by Developer to ensure payment of the costs, fees or expenses which may be incurred in the performance of such work.

2. TERMINATION. Developer and District agree that Developer may terminate this Agreement without cause by providing ten (10) days written notice of termination to the District. Any such termination by Developer is contingent upon Developer's provision of sufficient funds to cover any and all fees, costs or expenses incurred by the District in connection with the work to be performed under this Agreement as of the date by when notice of termination is received. Developer and the District agree that the District may terminate this Agreement due to a failure of Developer to provide funds in accordance with Section 1 of this Agreement, by providing ten (10) days written notice of termination to Developer; provided, however, that the Developer shall be provided a reasonable opportunity to cure any such failure.

3. CAPITALIZATION.

A. In the event that the District issues bond, notes or other indebtedness to fund the construction of the Project, such indebtedness may only be secured by land within the District that, as of the effective date of this Agreement, is undeveloped. Accordingly, the District shall not issue bonds, notes or other indebtedness that is secured by any lands, and shall not impose special assessments on any lands, relative to the Project that have been platted as of the effective date of this Agreement.

B. The parties agree that all funds provided by Developer pursuant to this Agreement may be reimbursable from proceeds of District financing relative to the Project, and that within forty-five (45) days of receipt of the proceeds by the District of bonds or notes for the Project, the District shall reimburse Developer in full, exclusive of interest, for these advances. In the event that District bonds to finance the Project are not issued within five (5) years of the date of this Agreement, the District shall issue to Developer, or Developer's assignee, a credit towards future District taxes or capital assessments in the amount of all funds provided by Developer pursuant to this Agreement which may be allocated by Developer or Developer's assignee as a credit to land within the District that is undeveloped as of the effective date of this Agreement.

C. Notwithstanding the foregoing, nothing herein shall obligate the District to issue such bonds or other indebtedness to finance the Project. The obligation of the District to reimburse the Developer for monies advanced under this Agreement shall survive any termination of this Agreement. In addition, a default by Developer under this Agreement shall not relieve District's obligation to reimburse Developer for monies advanced under this Agreement and District shall owe such monies regardless of a Developer default, but nothing shall preclude District from seeking any available remedies of District due to a Developer default as permitted in Paragraph 4. Developer shall have the right to assign any taxes or capital assessments allocated by District under this paragraph to any third party in Developer's sole discretion. Upon notice to District that such taxes or capital assessments have been assigned, District shall provide the assignee written confirmation that the taxes or assessments are in the name of assignee.

4. DEFAULT. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief and/or specific performance.

5. ENFORCEMENT OF AGREEMENT. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees, paralegal fees, expert witness fees and costs for trial, alternative dispute resolution, or appellate proceedings.

6. AGREEMENT. This instrument shall constitute the final and complete expression of this Agreement between the parties relating to the subject matter of this Agreement.

7. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.

8. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

9. NOTICES. All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. If to District: West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: Jonathan T. Johnson

B. If to Developer: West Villages Construction, LLLP

4901 Vineland Road, Suite 450
Orlando, Florida 32811
Attn: Leslie Candes

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

10. **THIRD PARTY BENEFICIARIES.** Except for any party the Developer elects to assign taxes or assessments pursuant to Paragraph 3 (which party shall be a third party beneficiary to this Agreement), this Agreement is solely for the benefit of the parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

11. **ASSIGNMENT.** Neither party may assign this Agreement or any monies to become due hereunder without the prior written approval of the other party.

12. **CONTROLLING LAW; VENUE.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue shall be in Sarasota County, Florida.

13. **EFFECTIVE DATE.** The Agreement shall be effective after execution by both parties hereto and shall remain in effect unless terminated by either of the parties hereto.

14. **PUBLIC RECORDS.** Developer understands and agrees that all documents of any kind provided to the District or to District Staff in connection with the work contemplated under this Agreement are public records and are treated as such in accordance with Florida law.

IN WITNESS WHEREOF, the parties execute this Agreement to be effective the day and year first written above.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

WITNESSES:

Print Name: Jennifer Thomas

Print Name: ALEXANDRA LONDO

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: **Thomas Ranch Villages GP, LLC**, a Delaware limited liability company

By: **Thomas Ranch Manager, LLC**, a Delaware limited liability company

Leslie Candes, Vice President

EXHIBIT 2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by C.W. (Bill) Musselwhite Sr. Vice President
(print individual's name and title)

for Youngquist Brothers, Inc.
(print name of entity submitting sworn statement)

whose business address is: 15465 Pine Ridge Road, Fort Myers, Florida 33908

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan, it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

Signature by authorize representative

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of June, 2018, by Bill Musselwhite of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

Christine Fulbright
Notary Public, State of Florida

EXHIBIT 3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), *FLORIDA STATUTES*, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of SR. VICE PRESIDENT for Youngquist Brothers, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

4. Contractor's Federal Employer Identification Number (FEIN) is 59-1836961

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), *Florida Statutes*, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this 21ST day of JUNE, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____

Its: SR. VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of JUNE, 2018, by Bill Musselwhite of Youngquist Brothers, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Christine Fulbright
Notary Public, State of Florida

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

EXHIBIT 4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

* ∅ Dollars $ ∅

(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this 21ST day of JUNE, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____

Its: SR. VICE PRESIDENT

(*) NO TRENCH EXCAVATIONS EXCEED 5 FEET IN YOUNGQUIST BROTHERS SCOPE OF WORK

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of JUNE, 2018, by Brian Musselwhite, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Christine Fulbright
Notary Public, State of Florida

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
* N/A			
		Project Total:	

Dated this 21st day of June, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____
Its: Sr. Vice President

X NO TRENCH EXCAVATIONS EXCEED 5 FEET IN YOUNGQUIST BROTHERS SCOPE OF WORK

STATE OF FLORIDA
COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 21st day of June, 2018, by Bill Musselwhite, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

Christine Fulbright
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the May 1, 2018 Agreement between West Villages Construction LLLP and Youngquist Brothers, Inc., a Florida corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit 1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and Contractor, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the *Florida Statutes*, Contractor shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the *Florida Statutes*. Such bond and/or security shall be for 100% of the Project Contract Price and shall be in effect for a full year from the time of completion of the Project. Contractor agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. Contractor shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however), to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, *Florida Statutes*. All payments due and not made within the time prescribed by Section 218.735, *Florida Statutes*, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

5. INDEMNIFICATION. Contractor shall defend indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 5.1.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the Contractor may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to Contractor. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to Contractor that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the Contractor shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule I2A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the WVID; (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds; (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the *Florida Statutes*, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), *Florida Statutes*.

Contractor shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or propriety information provided by Contractor to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID:	West Villages Improvement District 2501-A Burns Road Palm Beach Gardens, Florida 33410 Attn: Todd Wodraska
With a copy to:	Hopping Green & Sams, P.A. 119 South Monroe, Suite 300 (32301) Post Office Box 6526 Tallahassee, Florida 32314 Attn: Jonathan T. Johnson

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to section 287.135(5), *Florida Statutes*, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit 2**. If the Contractor is found to have submitted a false certification as provided in section 287.135(5), *Florida Statutes*, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit 3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to

execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit 4**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, *FLORIDA STATUTES*, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

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IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

Charles A. Reynolds
Print Name Charles Reynolds
R.J.F.
Print Name Richard J. Finch

"CONTRACTOR"

YOUNGQUIST BROTHERS, INC., a Florida corporation

By:
Print Name: C.W. (Bill) Musselwhite
Title: Sr. Vice President
Date: 9/21/2018

"WVID"

Todd Wodraska
Lindsay Whelan
Print Name Lindsay Whelan

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government
By:
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit 1: Agreement
Exhibit 2: Scrutinized Companies Statement
Exhibit 3: Public Entity Crimes Statement
Exhibit 4: Trench Safety Act Statement

EXHIBIT 1

See attached

AGREEMENT BETWEEN
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
("Owner")

AND
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
("Contractor")

May 15th 2018

where the basis of payment is a Stipulated Lump Sum Price

4847-0748-5823.6

AGREEMENT BETWEEN OWNER AND CONTRACTOR
where the basis of payment is a Stipulated Lump Sum Price

THIS AGREEMENT BETWEEN OWNER AND CONTRACTOR where the basis of payment is a Stipulated Sum (the "Agreement" or "Contract") is dated and made on the 11 day of May 2018, by and between West Villages Construction, LLLP, a Florida limited liability limited partnership, (the "Owner") and Youngquist Brothers, Inc., a Florida corporation, (the "Contractor").

Owner Information:
WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Owner's designated representative:
Brad Soule, Director of Land Development
(941) 999.4822x103 – office
(508) 737.2420 – mobile
brad.soule@mattamycorp.com

Contractor Information:
YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation
15465 Pine Ridge Road
Fort Myers, Florida 33908
Contractor's designated representative:
C.W. (Bill) Musselwhite, Senior Vice President
(239) 489-4545 - office
(239) 910-1191- mobile
bill@youngquistbrothers.com

Project Information:
West Villages Improvement District Class I Industrial Injection Well System pursuant to the Drawings (Exhibit A) and Specifications (Exhibit B) prepared by Engineer. The Work includes all equipment, permitting, UIC permit, drilling, exploration, testing for the completion of the Project Work including, without limitation, all injection, return, supply and monitoring wells, two single zone monitoring wells, on-site storage, geophysical logging, casing, grouting, mobilization and demobilization, sampling, jobsite and home office overhead, insurance and bonds.

Engineer and Geologist Information (collectively the "Engineer"):
Engineer:
KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina corporation
1777 Main Street, Suite 200
Sarasota, Florida 34236
Engineer's designated representative or Resident Project Representative is:
Ashley M. Miele, P.E.
(941) 379-7616 - office
(941) 730-0783 - mobile
Ashley.Miele@kimley-horn.com

4847-0748-5823.6

Engineer's sub-consultant (the "Geologist"):
ASRUS, LLC, a Florida limited liability company
13329 North Armenia Avenue
Tampa, Florida 33613
Mark McNeal, Chief Executive Officer
(813) 264-9100
(813) 765-7942
mmcneal@asrus.net

Unless context otherwise requires, or as specifically set forth below, the terms used in this Agreement shall have the same meaning as are attributed to them in the Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions"), attached hereto and incorporated herein as Exhibit C.

The Owner and Contractor agree as follows:

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 Contractor RESPONSIBILITIES

3 OWNER RESPONSIBILITIES

4 ENGINEER

5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE

6 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE

7 COST OF WORK FOR CONSTRUCTION PHASE

8 PAYMENT PROCEDURES

9 INSURANCE AND BONDS

10 ENUMERATION OF CONTRACT DOCUMENTS

11 MISCELLANEOUS

12 TERMINATION OR SUSPENSION

13 DISPUTE RESOLUTION

ARTICLE 1. GENERAL PROVISIONS

§1.1 Contractor has represented itself as having expertise in the Project requirements, including planning, scheduling, budgeting, constructability analysis, value engineering, and construction means

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and methods dictated by design parameters in the Contract Documents. Contractor covenants with the Owner to (i) cooperate with the Engineer in furthering the interests of the Owner, (ii) provide efficient construction administration, management services and supervision, (iii) provide at all times an adequate supply of workers and materials, and (iv) perform the Work in an expeditious and economical manner consistent with the Owner's interests, Drawings, Laws and Regulations, and the Contract Times.

§1.2 Neither Contractor nor any of Contractor's employees shall be deemed employees of the Owner for any purpose whatsoever, Contractor being at all times, acting as an independent contractor hereunder, responsible as an independent contractor to the Owner.

ARTICLE 2. CONTRACTOR RESPONSIBILITIES

§ 2.1 General.
§ 2.1.1 Contractor shall fully execute the Work described in the Contract Documents. Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. All Work shall be performed in a good and workmanlike manner in conformity with the terms, conditions, specifications and requirements contained in the Agreement.

§ 2.1.2 For purposes of Article 4 of the General Conditions, the date of commencement of the Work shall be date of the Owner's issuance of a written Notice to Proceed, a form of which is attached hereto as Exhibit D.

§ 2.2 Contract Times
§ 2.2.1 Substantial Completion.
Substantial Completion shall be determined from the date when the Contract Times commence to run in Section 2.1.1 of this Agreement. Contractor shall achieve Substantial Completion of the entire Work within 335 calendar days of the date of commencement (subject to increases or decreases in the Contract Times pursuant to the General Conditions), time being of the essence. Contractor shall finally complete the Work and satisfy all conditions to final completion and final payment within 30 calendar days from Substantial Completion, time being of the essence. Contractor shall maintain and achieve all dates and milestones identified in the Progress Schedule.

§ 2.2.2 Liquidated Damages.
Contractor understands that time is of the essence in the performance of the Work and that Owner shall incur damages in the event of late completion in kind and in amount that is difficult to ascertain and calculate. Accordingly, if Contractor fails to achieve Substantial Completion of the entire Work within the number of calendar days specified, then Contractor shall pay Owner as liquidated damages and not by way of penalty, the following:

- Two Hundred Fifty and No/100 Dollars ($250.00) per calendar day, for the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work within the specified time; and

- Five Hundred and No/100 Dollars ($500.00) per calendar day, after the first thirty (30) calendar days the Contractor fails to achieve Substantial Completion of the entire Work.

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In the event Owner withholds or deducts any money or payment due from Contractor for liquidated damages, Contractor shall have the right and ability to file a Claim pursuant to the dispute provisions of this Agreement. The parties acknowledge that the liquidated damages provided above are reasonable, are not punitive and may be deducted from monies due Contractor under the Agreement and pursuant to Article 15 of the General Conditions. Any deductions on account of liquidated damages may be set-off against, among other things, progress payments, retainage, or under such other agreements Contractor has with Owner. In the event no money is due the Contractor, then Contractor shall pay the Owner such undisputed sums within fifteen (15) days written demand therefor.

Contractor expressly waives and relinquishes any right which it may have to characterize the above liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting in the event that Contractor fails to substantially complete the Work in a timely manner. It is specifically agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of this liquidated damages provision, that such legal limitations are made a part of the this provision and shall operate to amend this provision to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the liquidated damages provision shall continue in full force and effect.

§ 2.3 Contractor acknowledges that this Agreement may be assigned to the West Villages Improvement District (WVID). Upon assignment provided in 9.2 of this Agreement, Contractor shall comply with all Laws and Regulations of the WVID, including Resolution 2017-02, and Resolution 2016-21, copies of which is attached hereto and incorporated herein as Exhibit E and Exhibit F, respectively.

§ 2.4 Contractor shall protect all materials, equipment, completed and partially completed Work from loss and damage. Contractor warrants that all materials and equipment included in the Work will be new, free from defects, in accordance with the Drawings and Specifications, and in compliance with all Laws and Regulations.

§ 2.5 Contractor shall prohibit the use, transportation and possession of firearms, drugs and/or controlled substances, drug paraphernalia and alcoholic beverages at the drilling locations.

§ 2.6 Contractor will be responsible for the work safety and industrial hygiene of its employees. Contractor will comply with all applicable health and safety standards, codes and regulations.

ARTICLE 3. ENGINEER.

The Project was designed by the Engineer and its sub-consultants including the Geoligist. The Geologist will be the Owner's representative during the Construction Phase, with such duties, responsibilities, rights and authority assigned to it in the Contract Documents. The term "Engineer" as used in the General Conditions shall mean the Geologist.

ARTICLE 4. CONTRACT PRICE – STIPULATED LUMP SUM.

Owner shall pay the Contractor a stipulated lump sum Contract Price in current funds for the performance of the Agreement. The Contract Price shall be Five Million Two Hundred Thousand and No/100 Dollars ($5,200,000). Contractor guarantees that the Contract Price shall not be exceeded except for approved additions as provided in the Contract Documents. The Contract Price shall correspond with Contractor's Schedule of Values (Exhibit M) that allocates portions of the Contract Price to milestones for portions of the Work. Contractor shall not re-allocate portions of the Work identified in the Schedule of Values without express written approval of the Owner.

ARTICLE 5. PAYMENT PROCEDURES.

§ 5.1 Pre-Assignment Progress Payments

§ 5.1.1 Prior to any assignment provided in Section 9.2 of this Agreement, and based on Application for Payment submitted to the Geologist, the Owner shall make progress payments on account of the Contract Price to the Contractor as provided below and Article 15 of the General Conditions, and elsewhere in the Contract Documents.

§ 5.1.2 Applications for Payment shall include all information pursuant to Article 15 of the General Conditions. Each Application for Payment shall be accompanied by an executed Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment - Exhibit G - from Contractor and all Subcontractors, Suppliers and lienors certifying payment and releasing all Liens and bond claims through the date of the previous Application for Payment. In lieu of executed releases of lien from Subcontractors and Suppliers the Contractor may submit to the Owner, for Owner's written approval, a consent of surety to progress payment or final payment providing that upon making a payment, the Owner preserves its rights under the bonds provided in Article 6 of this Agreement and that the surety shall agree that any such payment will not relieve the surety of any of its obligations under the bond concerning any such Subcontractors, Suppliers and lienors. Nothing provided herein shall relieve the Contractor from executing the affidavits and releases required by this Agreement.

§ 5.1.3 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Within 15 days after the end of each month, Contractor shall submit to the Geologist and Owner, Applications for Payment covering charges for the previous calendar month.

§ 5.1.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Contract Price allocated to that portion of the Work in the Schedule of Values; less retainage of ten percent (10%)
.2 Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing;
.3 Subtract the aggregate of previous payments made by the Owner; and
.4 Subtract amounts, if any, for which the Geologist has withheld or nullified.

§ 5.1.5 Contractor shall not advance payments to suppliers for materials or equipment which have not been delivered and stored at the Site.

§ 5.1.6 Post-Assignment Progress Payments

Prior to the effective date of the assignment of the Agreement pursuant to Section 9.2 herein, payment for Work is due and payable in accordance with Florida's Prompt Payment Act governing private projects or construction contracts. Notwithstanding anything to the contrary, upon assigning this Agreement to the WVID pursuant to Section 9.2 herein, Contractor shall provide its Application for Payment to the WVID by the fifth (5th) day of the next succeeding month. An approved Application for Payment is due and payable in accordance with Florida's Prompt Payment Act and Resolution 2016-22 of the WVID, a copy of which is attached hereto and incorporated herein as Exhibit H. The Application for Payment shall include such supporting information as the WVID may reasonably require the Contractor to provide.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Price, shall be made by the Owner to the Contractor when:

.1 final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions;
.2 Contractor and all of its Subcontractors, Suppliers and lienors having executed and delivered to Owner a Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment in the form attached hereto as Exhibit I; unless the lien is attributable to the Owner;
.3 Contractor having delivered to Owner an indexed, loose leaf binder containing complete installation, operation and maintenance manuals, including all manufacturer's literature, for equipment and materials used in the Work and all inspection reports and permits;
.4 Contractor having delivered to Owner a certificate of completion issued by the applicable permitting and/or governmental authorities;
.5 Contractor having delivered to Owner consents of surety; and
.6 Contractor having performed and/or delivered to Owner any and all other items required by the Contract Documents as a condition to final payment.

§ 5.2.2 If Contractor fails to perform any of its duties described in this Agreement or in any of the Contract Documents, within the limits established, or if no limits are established, within 7 calendar days after written notice from Owner may, retain others to perform such duties, and the cost of such performance will be charged against the portion of the Contract Price due Contractor. Owner shall have the right to offset such amount against the Contract Price and may elect either to: (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due Contractor from Owner, or (ii) issue a written notice to Contractor reducing the Contract Price by an amount equal to that which Owner is entitled.

ARTICLE 6. INSURANCE and BONDS.

§ 6.1 Insurance.

§ 6.1.1 For all phases of the Project, Contractor shall purchase and maintain insurance, and provide bonds as set forth in Articles 2 and 6 of the General Conditions and this Agreement.

§ 6.1.1.1 Contractor shall, for the protection and benefit of the indemnified parties, who shall be named as "Additional Insured's" on such policies of insurance, with the exception of Contractor's workers compensation insurance, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work, policies of insurance issued by a responsible carrier or carriers acceptable to Owner, which afford the coverages set forth on Exhibit J, attached hereto and incorporated herein by reference. Contractor shall provide, on or before ten (10) days prior to commencing any Work under the Agreement, certificates or memoranda of insurance and insurance policy endorsements (collectively, "Insurance Certificates") evidencing (a) insurance coverages and policy limits; and (b) the requirements under the Contract Documents.

§ 6.1.1.2 All deductibles under any insurance shall be paid by Contractor.

§ 6.1.1.3 The Insurance Certificates shall set forth the names of the insurance carriers, the policy numbers, the coverage limits, any applicable deductible or retention, and the policy effective and expiration dates. All insurance coverages required to be maintained by Contractor pursuant to this Section provide coverage on an "occurrence" basis and not on a "claims made" basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage not less than three (3) years after final completion or the expiration of any statute of repose.

§ 6.1.2 The insurance required by this Section shall be endorsed by Contractor's insurance carriers to reflect (a) that that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, are primary over any other insurance coverage that may be available to Owner and (b) that any other insurance coverage that may be available to Owner shall be excess over the coverages provided by the policies required by this paragraph, including any excess or umbrella policies, and (c) that the coverages provided pursuant to the policies required by this paragraph, including any excess or umbrella policies, shall not require contribution of any other insurance coverage that may be available to Owner, regardless of how such other insurance coverage of Owner is structured to apply in other insurance situations. The following language shall be added to Contractor's insurance: "The coverage afforded to the insured under this policy is primary insurance over any other valid or collectible insurance that the insured may have with respect to any loss under this policy. Other insurance of any insured applicable to any loss under this policy shall be in excess over this policy, and the amount of the company's liability under this policy shall not be reduced or apportioned pro rata by the existence of such other insurance."

§ 6.1.3 Additional Insureds.

The Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties") together with the West Villages Improvement District, City of North Port, Geologist and Engineer shall be named as additional insureds on all such liability policies for all Work. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District and City of North Port shall be named as additional insureds arising out of Contractor's Work, during the Contractor's operations and following the Contractor's completed operations.

§ 6.1.4 All policies and certificates of insurance shall expressly provide that no less than thirty (30) days prior written notice shall be given to Owner in event of material alteration, cancellation, non-renewal, or

expiration of the coverage contained in such policy or evidenced by such certified copy or certificate of insurance. Any insurance policies that expire prior to the time specified herein or in Exhibit J shall be renewed or replaced with no gaps in coverage, and evidence of the renewal or replacement, along with updated Insurance Certificates, shall be provided to Owner at least seven (7) days prior to the expiration of the policy.

§ 6.1.5 Waiver of Subrogation.
Contractor shall waive its right of subrogation against all Owner Parties on all policies that are in any way related to the Work. Additionally, all policies procured by Contractor and its Subcontractors shall expressly state that the insurer waives all rights of subrogation against the Owner Parties.

§ 6.1.6 The insurance coverages required in this paragraph shall not be construed to in any way limit Contractor's indemnification or contribution obligations to Owner or any other liability to Owner or any third party.

§ 6.1.7 Any aggregate limit under Contractor's liability insurance shall, by endorsement, apply to the Project separately.

6.2 Performance Bond And Payment Bond.
§ 6.2.1 Before commencing the Work, and consistent with the requirements of this Agreement, Article 6 of the General Conditions, and Section 255.05, *Florida Statutes*, Contractor shall execute, deliver to the Owner, and record in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state. Each bond shall be for 100% of the Contract Price and shall be in effect for a full year from the time of final completion of the Project. Contractor acknowledges that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the Project. Contractor shall notify any Subcontractors, material suppliers or others claiming interest in the Work of the existence of the payment and performance bond.

§ 6.2.1.1 The Owner and WVID shall be named as dual obligees under all performance bonds and payment bonds. Performance bonds shall include the following terms and conditions:

§ 6.2.1.2 The surety shall promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of the Contract Documents including, but not limited to the satisfactory completion of the Work, and all the warranty provisions, in the time and manner prescribed in the Agreement; and

§ 6.2.1.3 Pay Owner all losses, damages, expenses, costs and attorney's fees, including costs and attorney's fees, including appellate proceedings that Owner incurs arising from or related to any breach or default by Contractor under the Agreement; and

§ 6.2.1.4 That the coverage of the performance bond is co-equal with each and every obligation of the Contractor under the Contract Documents; and

§ 6.2.1.5 That the Contractor's Contract Times is of the essence and applicable delay damages are not waived by the Owner; and

§ 6.2.1.6 That any changes under the Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect surety's obligations under this bond.

ARTICLE 7. INDEMNIFICATION AND LIMITATION OF LIABILITY.

§ 7.1 Indemnification.
§ 7.1.1 Up to the sum of $1,000,000 which the parties agree is commercially reasonable, Contractor, and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, for personal injury and/or property damage caused by the negligent acts or omissions of Contractor, and other persons employed or utilized by Contractor in the performance of this Agreement or the services performed hereunder.

§ 7.1.2 Upon any assignment of this Agreement to WVID in accordance with Section 9.2 herein, West Villages and its employees, agents and subcontractors shall defend, hold harmless and indemnify the West Villages Improvement District and its supervisors, officers, staff, employees, representatives and agents against any claims, damages, liabilities, losses and costs, including, but not limited to, reasonable attorneys' fees, arising from the act of such assignment to the district.

§ 7.1.3 Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, attorney fees, paralegal fees and expert witness fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered.

§ 7.2 Limitation on Governmental Liability.
Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the West Villages Improvement District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

ARTICLE 8. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire Agreement between Owner and Contractor concerning the Work consist of the following:

§ 8.1 This Agreement.

§ 8.2 Exhibits to this Agreement:

- A Drawings: Figure 3-10 Proposed Injection Well System, prepared by Geologist, 1 page
- B Specifications: West Villages Injection Well System Construction and Testing Procedures Plan, Class I Industrial Injection Well System, 8 pages; Table GL-1, Proposed Borehole Geophysical Logging Program for the West Villages Injection Well System, dated

1/17/2018, 1 page; Table WQ-1, Standard Water Quality Sampling Parameters at the West Villages Injection Well System, dated 1/18/2018, 1 page.
- C WEST VILLAGES CONSTRUCTION LLLP Modified Standard General Conditions of the Construction Contract, Form EJCDC No. C-700 (Rev. 1)(2013 Edition), 62 pages (the "General Conditions") with incorporated provisions. Sent electronically only unless otherwise requested
- D Form – Notice to Proceed, 1 page
- E Resolution 2017-02, West Villages Improvement District
- F Resolution 2016-21, West Villages Improvement District
- G Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment, 2 pages
- H Resolution 2016-22, West Villages Improvement District
- I Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment, 3 pages
- J Insurance Requirements
- K Form of Assignment and Assumption of Contract, with exhibits K-1 through K-3
- L Addendum to Agreement Upon Assignment, with exhibits L-1 through L-4
- M Schedule of Values – West Villages Class I Industrial Well System Parts 1-4, 6 pages
- N FDEP UIC Permit
- O Financing And Construction Funding Agreement For Wastewater Treatment Plant, 6 pages

§ 8.3 The documents listed in this Article 8 are attached to this Agreement. There are no Contract Documents other than those listed in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions. In the event of conflicting provisions between or among the Contract Documents, the documents shall have priority and prevail in the following order: a Change Order, the Agreement, Exhibits N, B, A, J, E, F, H and C, any other Exhibit attached to the Agreement not otherwise specified in the preceding.

ARTICLE 9. MISCELLANEOUS.

§ 9.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

§9.2 Except as provided in this Agreement, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, Owner may, without consent of Contractor, assign this Agreement to the West Villages Improvement District, or permitting agency, governmental authority, special district or improvement district, or to an affiliate of Owner that controls, is controlled by or is under common control with Owner. Contractor and its surety shall promptly execute the Acknowledgement and Acceptance of Assignment and Release attached and included in Exhibit K (as Exhibit K-3), the Addendum to Agreement Upon Assignment attached and included in Exhibit L, and such other consents reasonably required to facilitate such assignment.

§ 9.3 Contractor binds itself, its successors, assigns and legal representatives to the Owner, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

§ 9.4 Contractor shall do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 9.5 This Agreement may be amended only by a written document signed by the parties hereto. Which party prepared this Agreement shall have no bearing on its construction.

§ 9.6 The captions denoting each Article of this Agreement shall have no application in the interpretation thereof, the language of the Article to be fully controlling.

§ 9.7 The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

§ 9.8 The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

§ 9.9 Each of the individuals executing this Agreement represent and warrant that he has been duly authorized by the respective party on whose behalf he is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him, this Agreement shall be valid and binding upon such party.

§ 9.10 This Agreement may be executed by telecopy, PDF, or other electronic transmission. The execution of any telecopied original, or PDF or other electronically submitted copy of an original, shall be deemed to be the equivalent of the execution of an original. Any copy of this Agreement, executed as described above, shall be deemed an original for all purposes. This Agreement may be executed in counterparts, a complete set of such executed counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart other than the counterpart containing the Party's signature against whom this Agreement is being enforced against.

§ 9.11 All understandings heretofore and between the parties are merged in this Agreement, which alone fully and completely express their Agreement. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and such remaining provisions shall remain in full force and effect. The invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

§ 9.12 COMPLIANCE WITH PUBLIC RECORDS LAWS. Contractor understands and agrees that all documents of any kind provided to the WVID in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling

such records, including but not limited to Section 119.0701, Florida Statutes. Contractor acknowledges that the designated public records custodian for the WVID is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor shall 1) keep and maintain public records required by the WVID to perform the service, 2) upon request by the Public Records Custodian, provide the WVID with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes; 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the WVID; and 4) upon completion of the contract, transfer to the WVID, at no cost, all public records in Contractor's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Contractor, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the WVID in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 630-4922, 2501A BURNS ROAD, PALM BEACH GARDENS, FLORIDA 33410, OR TWODRASKA@SDSINC.ORG.

§ 9.13 Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail addressed to the authorized representative (indicated in the below addresses) of the party to be notified, postpaid and certified with return receipt requested or by delivering the same in person to the said authorized representative, or by FedEx or UPS with tracking information provided, and by e-mail of such party during regular business hours. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in the Agreement from and after the fourth day next following the date postmarked on the envelope containing such notice, or when actually received by the party to be notified. Any notice to the Engineer must also be served on Owner and any notice to the Owner must also be served on the Engineer. All notices to be given to the parties hereto shall be sent to or made at the addresses set forth herein below:

If to Owner, at: Paul J. Erhardt, President
Brad Soule, Director of Land Development
19503 S. West Villages Parkway, #14
Venice, Florida 34293
Email: paul.erhardt@mattamycorp.com
Email: brad.soule@mattamycorp.com

with copy to: Leslie C. Candes, Esq.
4901 Vineland Road
Suite 450
Orlando, Florida 32811
Email: leslie.candes@mattamyhomes.com

If to Contractor, at: C.W. (Bill) Musselwhite, Senior Vice President
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Ft. Myers, FL 33908
(239) 489-4444 – office
(239) 910-1191
(239) 489-4545 - fax
Email: bill@youngquistbrothers.com

If to Geologist, at: ASRUS, LLC, a Florida limited liability company
13329 North Armenia Avenue
Tampa, Florida 33613
Mark McNeal, Chief Executive Officer
(813) 264-9100
(813) 765-7942
mmcneal@asrus.net

If to Engineer, at: Ashley M. Miele, P.E.
1777 Main Street, Suite 200
Sarasota, Florida 34236
Ashley M. Miele, P.E.
Email: Ashley.Miele@kimley-horn.com

ARTICLE 10. TERMINATION OR SUSPENSION.

The Agreement may be terminated by the Owner or the Contractor as provided in Article 16 of the General Conditions.

ARTICLE 11. DISPUTE RESOLUTION.

§ 11.1 Binding Dispute Resolution
For any Claim subject to, but not resolved by the procedures outlined in the General Conditions, the method of binding dispute resolution shall by final binding arbitration held in accordance with the procedures specified in §44.104, *Florida Statutes* and as specified herein. To the extent not in conflict with the preceding, the provisions of the Florida Arbitration Code will also apply. Joinder and consolidation of other parties, including Subcontractors is expressly permitted. The rules of civil procedure will apply to the arbitration as if the matter were a civil action. The arbitrators shall be selected pursuant to the American Arbitration Association guidelines.

§ 11.2. Governing Law, Venue And Jurisdiction. The Contract shall be governed by the laws of the State of Florida. The sole and exclusive venue and jurisdiction for any such litigation shall be in the County in which the Project is located.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective upon issuance of the date last executed below (the "Effective Date").

[signature pages to follow]

CONTRACTOR:

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By: _____
Name: _____
Title: _____
Date: 5/1/2018
State License No. _____
Expiration Date: 7/31/19

OWNER:

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company
Its: General Partner

By: THOMAS RANCH MANAGER, LLC, a Delaware limited liability company
Its: Manager

By: _____
Name: PAUL ERHARDT
Title: VICE PRESIDENT
Date: MAY 1, 2018

EXHIBIT A
DRAWINGS

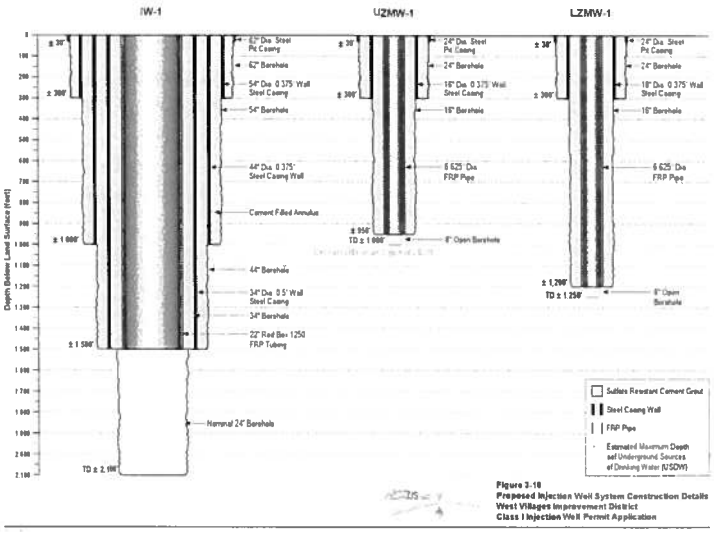


Figure 3-18
Proposed Injection Well System Construction Details
West Villages Improvement District
Class I Injection Well Permit Application

EXHIBIT B
SPECIFICATIONS

Construction and Testing Procedures Plan
West Villages Improvement District
Class I Industrial Injection Well System

The following schedules lay out the sequence of construction and testing for the West Villages Improvement District Class I industrial injection well (IW-1) and monitor wells UZMW-1 and LZMW-1. The injection well will be drilled first to identify monitoring intervals for the two monitor wells.

General Requirements

A. Construct a lined temporary drilling pad at the locations of IW-1 and the monitor wells to contain all fluids during drilling operations.

B. Install four (4) shallow surficial aquifer pad monitor wells around the drilling site and sample for FDEP required parameters weekly during well construction. Initial sampling results shall be submitted to FDEP prior to any drilling for the respective wells.

C. Drilling contractor will transport drilling fluids and cuttings to an FDEP-approved disposal site, which will be approved prior to well drilling activities.

D. Drilling information during all pilot hole drilling will be recorded, including penetration rate, voids, water producing zones, etc., in daily reports prepared during all drilling activities. Engineer's resident inspector and Contractor shall prepare independent daily reports, which will be submitted weekly throughout the drilling period to the FDEP along with a brief summary of the week's activities.

E. Drill cuttings/samples will be collected during pilot hole drilling every 10 feet to the total depth of the well and describe visually in a lithologic log. Hydrogeologic-related information will be included as applicable.

F. Casing depth and total depths for the wells are estimated below in Sections 1, 2, and 3. Actual depths will be determined from test data collected during drilling and be subject to FDEP approval as required by permit.

G. A static temperature log will be performed after each cementing stage of the casings and tubing to confirm the top of cement in conjunction with hard tags.

H. After reverse-air drilling is implemented at a well, measure water level from a known reference point each day prior to starting drilling activities.

I. A mechanical deviation survey will be run in pilot holes and reamed holes drilled for casing other than pit casings at intervals not greater than 90 feet. Any deviation in plumbness greater than 1 degree will be corrected by the drilling Contractor. A mechanical deviation survey will not be run on the open hole sections of the wells.

1 Injection Well IW-1

1.1 Set a nominal 62-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

1.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

1.3 Perform geophysical logging of pilot hole in accordance with Table GL-1.

1.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

1.5 Ream pilot hole to a nominal 62-inch diameter to selected casing depth.

1.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.7 Install 54-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

1.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

1.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to approximately 1,000 feet bls. The goal of this pilot hole will be to penetrate the base of the lowermost USDW and provide data to propose an intermediate casing setting depth deep enough to have two casings extend through the lowermost USDW.

1.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

1.11 Upon reaching the target depth of pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.12 Conduct up to four (4) off-bottom or straddle packer tests within selected zones to bracket the depth of 10,000 mg/L TDS concentration. Collect hydraulic data and water samples during the testing. Analyze the water samples for the List A parameters in Table WQ-1.

1.13 Engineer to select depth for intermediate casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.14 Set drillable bridge plug in pilot hole at intermediate casing setting depth agreed upon with FDEP and back plug pilot hole with cement grout to surface casing setting depth.

1.15 Ream hole to a nominal 34-inch diameter to selected intermediate casing setting depth below the base of the USDW at an estimated depth ranging between approximately 800 and 1,000 feet bls.

1.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.17 Set nominal 44-inch diameter steel casing with a 0.375-inch thick wall at selected depth, and cement in place with ASTM C-150 Type II neat cement.

1.18 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the total well depth between approximately 1,900 and 2,100 feet bls. The pilot hole will be terminated at the depth where anhydrites are encountered over a 20 to 40 feet depth interval or 2,100 feet bls, whichever is less.

1.19 During reverse-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

1.20 During pilot-hole advancement, collect up to five (5) 4-inch diameter, 10-foot length core sections. Cores will target potential confining intervals above the injection zone. Cores will be shipped by the Contractor to a core laboratory for hydraulic testing.

1.21 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

1.22 Complete up to four (4) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the injection zone. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing. The primary goal of these packer tests will be to characterize hydraulic and water quality profile of the interval, and in particular to evaluate the confinement between the USDW and the injection zone.

1.23 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

1.24 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement through confining interval above the injection zone.

1.25 Ream hole to a nominal 44-inch diameter to selected final casing setting depth above the injection zone at an estimated depth ranging between approximately 1,100 and 1,300 feet bls.

1.26 Perform geophysical logging of reamed hole in accordance with Table GL-1.

1.27 Set nominal 34-inch diameter, ½-inch wall, seamless carbon steel casing to the selected depth and cement in place with ASTM C-150 Type II cement.

The top 200 feet of annulus shall remain un-cemented until performance of the cement bond log (CBL) to assist with tool calibration during logging.

1.28 Conduct CBL of 34-inch diameter steel casing. Cement the top 200 feet after performing the CBL.

1.29 Conduct pressure test on 34-inch diameter final carbon steel casing following final cement stage on well. The pressure test will either utilize the cement plug or an inflatable packer at the base of the injection casing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.30 Ream nominal 24-inch diameter open hole from base of 34-inch diameter casing to total depth of the well using reverse-air drilling, closed circulation techniques.

1.31 Develop open-hole interval using air-lift and pumping and surging well development practices. Develop until clear water is produced from the well and until water quality is acceptable to onsite Engineer.

1.32 Install nominal 22-inch diameter RED BOX® 1250 FRP threaded and coupled injection tubing and cementing packer to a depth of approximately 10 feet above the base of the final casing and cement with ASTM C-150 Type II neat cement. The top 200 feet of annulus shall remain un-cemented until performance of the CBL to assist with tool calibration during logging.

1.33 Conduct CBL of the 22-inch diameter RED BOX® 1250 FRP injection tubing. Cement the top 200 feet after performing the CBL.

1.34 Purge well by pumping at a rate of approximately 1,400 gpm in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until field water quality parameters stabilize. Measure pumping rate with a calibrated flow meter and drawdown with a pressure transducer to evaluate the hydraulics of the injection zone. Collect an injection zone background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1, which include the Primary and Secondary Drinking Water Standards of 62-528.330.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin. Collect a 5-gallon unpreserved water sample and a 100mL sample preserved with nitric acid and ship samples to the Florida Geological Survey, Attention: Hydrogeology Administrator, 903 W. Tennessee Street, Tallahassee, FL 32304.

1.35 Complete temporary or permanent wellhead to control fluids in well.

1.36 Conduct pressure test on the nominal 22-inch diameter FRP tubing following final cement stage utilizing an inflatable packer set at the base of the injection

tubing. Pressurize casing to 1.5 times the anticipated maximum necessary injection pressure in the well. The pressure test is estimated to be run at between approximately 150 and 180 psi. The pressure test will be deemed successful if the pressure change is within plus or minus 5 percent of the starting pressure after one hour of testing. Repeat pressure test, if necessary, until pressure test is deemed successful.

1.37 Provide potable water to the site in sufficient quantity to provide clarity during video camera survey and freshwater bubble at base of final casing for external Radioactive Tracer Survey (RTS).

1.38 Conduct video camera survey of the well from land surface to the completion depth while injecting potable water.

1.39 Conduct caliper log of the well from land surface to the completion depth.

1.40 Conduct a high-resolution temperature log and external RTS to complete the mechanical integrity test (MIT) of the well.

1.41 A request for authorization to perform a short-term injection test will be submitted to FDEP based on a successful MIT. The injection test will be conducted following construction of monitor wells UZMW-1 and LZMW-1, and receipt of authorization from FDEP.

2 Lower Zone Monitor Well

2.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

2.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

2.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

2.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

2.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

2.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

2.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

2.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to the top of the confinement above the injection zone identified from the construction and testing of the injection well.

2.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List B parameters in Table WQ-1.

2.11 Perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

2.12 Complete up to three (3) straddle packer or off-bottom packer tests in the interval between the bottom of the intermediate casing and the top of the confinement above the injection zone to identify the LZMW-1 monitoring interval. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in Table WQ-1 during the packer testing to confirm water quality and productivity of the lower monitoring interval.

2.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

2.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

2.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

2.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

2.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

2.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

2.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

2.20 Conduct a CBL of the FRP pipe following the required cement curing time.

2.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

2.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the lower monitoring zone. Collect a background formation water sample and submit to NELAC-Certified

laboratory for analysis of the List C parameters in Table WQ-1, which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

2.23 Install pressure transducer in well LZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

3 Upper Zone Monitor Well

3.1 Install a nominal 24-inch diameter steel pit casing at a depth of approximately 30 feet below land surface (bls) to isolate surficial deposits. The pit casing shall be installed, as needed, by the drilling contractor, to stabilize the site for drilling operations.

3.2 Drill a nominal 8- to 12-inch diameter pilot hole using mud rotary to a depth of approximately 300 feet bls.

3.3 Upon reaching the target depth of the pilot hole, perform geophysical logging of pilot hole in accordance with Table GL-1.

3.4 Select depth to set surface casing into competent rock using drilling and lithologic data, and geophysical logs.

3.5 Ream pilot hole to a nominal 24-inch diameter to selected casing depth.

3.6 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.7 Install 16-inch diameter surface steel casing with a 0.375-inch thick wall to an estimated depth between approximately 200 and 300 feet and cement in place with ASTM C-150 Type II cement.

3.8 Install flow prevention device to control artesian head pressures within the UFA and switch to reverse-air drilling techniques.

3.9 Drill a nominal 8- to 12-inch diameter pilot hole using reverse-air drilling techniques to below the base of the USDW as identified from the construction and testing of the injection well.

3.10 During revers-air drilling, conduct drill stem specific capacity tests at approximately every 60 feet for a duration of approximately 30 minutes and collect water samples for laboratory analysis for the List A parameters in Table WQ-1.

3.11 Upon reaching the target depth of the pilot hole, perform geophysical logging under both pumping and static conditions in accordance with Table GL-1.

3.12 Complete one (1) off-bottom packer test in the interval to verify UZMW-1 monitoring interval is above the base of the USDW. Collect hydraulic data and collect water samples for laboratory analysis for the List B parameters in

Table WQ-1 during the packer testing to confirm water quality and productivity of the upper monitoring interval.

3.13 Engineer to select depth for final casing using drilling, lithologic, and packer test data, and geophysical logs, and propose a final casing setting depth to the FDEP for approval.

3.14 Set drillable bridge plug in pilot hole at final casing setting depth agreed upon with FDEP. Back plug pilot hole with cement to bottom of intermediate steel casing.

3.15 Ream nominal 16-inch diameter open hole from base of 16-inch diameter casing to selected monitoring depth using reverse-air drilling, closed circulation techniques.

3.16 Perform geophysical logging of reamed hole in accordance with Table GL-1.

3.17 Install nominal 6-inch diameter FRP pipe with a cement packer to selected casing setting depth, and cement in place with ASTM C-150 Type II cement.

3.18 Install temporary wellhead, and after the cement has cured, perform a casing pressure test on the FRP pipe utilizing an inflatable packer set at the base of the, at a minimum of 50 psi for one hour.

3.19 Develop well using air-lift and surging techniques until clear groundwater is produced from the well.

3.20 Conduct a CBL of the FRP pipe following the required cement curing time.

3.21 Conduct video camera survey and caliper log of the well from land surface to the completion depth.

3.22 Purge well by pumping in accordance with FDEP Standard Operating Procedure (SOP) -001/01, FS 2200 Groundwater Sampling until temperature, chlorides and specific conductivity stabilize. Measure pumping rate and drawdown to evaluate the hydraulics of the upper monitoring zone. Collect a background formation water sample and submit to NELAC-Certified laboratory for analysis of the List C parameters in Table WQ-1 which includes the Primary and Secondary Drinking Water Standards of 62-528.550.310 and .320, F.A.C., except asbestos, dioxin, acrylamide, and epichlorohydrin.

3.23 Install pressure transducer in Well UZMW-1 for measurement of water levels during pre-injection test background period, injection testing, and recovery periods.

TABLE GL-1
Proposed Borehole Geophysical Logging Program for the WVID Injection Well System

Well Configuration	Interval	Geophysical Logs								
		Caliper	Natural Gamma	Dual Induction	Video/ BHT Survey	BCS	Fluid Resistivity	Flow-meter	Temperature	SP
Injection Well IW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (62")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1000	▲	▲	▲		▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (54")	0 to 1000	▲	▲							
Pilot Hole (8 -12")	1000 to 2100	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (44")	0 to 1500	▲	▲							
LZMW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (24")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1250	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16")	0 to 1200	▲	▲							
UZMW-1										
Pilot Hole (8 -12")	0 to 300	▲	▲	▲						▲
Reamed Hole (24")	0 to 300	▲	▲							
Pilot Hole (8 -12")	300 to 1000	▲	▲	▲	▲	▲	▲ (S/D)	▲ (S/D)	▲ (S/D)	▲
Reamed Hole (16")	0 to 950	▲	▲							

Borehole Compensated Sonic (BCS) Borehole Televiewer (BHT) Static (S) Dynamic (D)

TABLE WQ-1
Standard Water Quality Sampling Parameters at the WVID Injection Well System

List A	List B	List C
Chloride	All Parameters in List A	Total Kjeldahl Nitrogen
Sulfate	Total Kjeldahl Nitrogen	Ammonia Nitrogen
Total Dissolved Solids	Ammonia Nitrogen	State Primary DWSs[2]
Lab and Field Conductivity		State Secondary DWSs
Field Temperature		Field Dissolved Oxygen
Field pH		Field Turbidity
		Lab/ Field Conductivity
		Field Temperature
		Field pH

[1] Drinking Water Standards (DWSs).

[2] Excluding asbestos, dioxin, acrylamide, and epichlorohydrin

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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WEST VILLAGES CONSTRUCTION, LLLP MODIFIED GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
5. *Bidder*—An individual or entity that submits a Bid to Owner.
6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

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regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract or Agreement*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
18. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver. The Effective Date of the Contract is not the date of commencement of the Work as specified in the Agreement.
19. *Engineer*—The Geologist named in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
21. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

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22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, payment and performance bonds, real property, or personal property.
24. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
25. *Notice of Award*—The written notice, if any, by Owner to a Bidder of Owner's acceptance of the Bid.
26. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
27. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
28. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
29. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
30. *Project Manual*—The written documents, if any, prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions if any, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
31. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
32. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
34. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
35. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

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submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

36. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

37. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

38. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

39. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.

41. *Supplementary Conditions*—The part of the Contract, if any, that amends or supplements these General Conditions.

42. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

43. *Technical Data*—Those items expressly identified as Technical Data, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

44. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

45. *Unit Price Work*—Work to be paid for on the basis of unit prices.

46. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to

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produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

47. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations or dispute resolution process by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*:

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*:

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

a. does not conform to the Contract Documents; or

b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).

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E. *Furnish, Install, Perform, Provide*:

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of all insurance required to be provided by Contractor under or pursuant to the Contract Documents or, with consent of Owner, certificates of insurance in form and substance satisfactory to Owner evidencing the required coverages with limits not less than those specified in the Contract Documents. Prior to entitlement to each and any payment, Contractor shall furnish evidence of effective insurance by way of a copy of policy for each coverage required or, if consented to by Owner, a certificate of insurance under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor up to three printed or hard copies and one complete electronic copy of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Pursuant to Section 2.3.3.5 of the Agreement, Contractor shall submit to Owner and Engineer:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

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2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference, Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.

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C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner. Contractor shall verify the accuracy of all grades, elevations, dimensions, locations and field measurements. In all cases of interconnection of its Work with existing or other work, Contractor shall verify at the Site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify such grades, elevations, dimensions, locations or field measurements shall be promptly rectified by Contractor without additional cost to Owner and without an extension of the Contract Times.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to

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supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*:

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*:

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible

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after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times*

A. The Contract Times will commence to run on the date specified in the Agreement or, if a Notice to Proceed is provided, on the day indicated on the Notice to Proceed which shall be given after the Contract is executed.

B. Contractor shall start to perform the Work on the date when the Contract Times commence to run. Only preliminary Work, authorized by the Owner shall be performed at the Site prior to commencement of the Contract Times.

4.02 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or

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requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

B. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.

C. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.03 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress in the critical path of the Work without fault of Contractor, then Contractor, as its sole and exclusive remedy shall be an extension in the Contract Times; Contractor absolutely and unconditionally waives any other damages it may have for delays, disruption, hindrances, and/or interference.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor; and in such event, Contractor shall accelerate its prosecution of the Work, at its sole cost and expense, to meet the required Substantial Completion and final completion dates in accordance with the Contract Times.

C. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. abnormal torrential weather conditions;

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and

4. acts of war or terrorism.

D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated

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with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

F. Contractor shall not be entitled to an adjustment in Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site and a survey of the Site. Contractor acknowledges that the Site may involve ongoing concurrent work performed by others arising from the construction and installation of a Class I Injection Well. Contractor has considered the Site and the encumbrances and restrictions upon the Site in providing its Contract Price and Progress Schedule. Owner acknowledges that the Contract Price and schedule is based on a 24 hour per day, 7 days per week operation. Cooperation will be required to achieve Project objectives.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*:

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas, provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

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2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise, (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law, and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*:

1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities). The reports and drawings shall not excuse Contractor from independently visually evaluating the Site to satisfy itself as to the conditions and limitations under which the Work is to be performed. Notwithstanding the foregoing, Owner will provide a Site free from conditions not frequently encountered during site work and excavation in Sarasota County, including buried, debris, and unnaturally occurring buried organics. Owner assumes no responsibility or liability for the safety of the Project or Site or any improvements located thereon. Contractor shall be solely responsible for providing a safe place for the performance of the Work; and

3. Technical Data contained in such reports and drawings.

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B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Section 1.01.A.44) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

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

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

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

2. is of such a nature as to require a change in the Drawings or Specifications; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, within seven (7) days after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement

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to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Times Adjustments*:

1. Contractor may be entitled to an adjustment in the Contract Price to the extent that the existence of a differing subsurface or physical condition, or related delay, disruption, or interference, causes an increase or decrease in Contractor's jobsite overhead cost, subject, however, to the following:

a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

2. Contractor shall not be entitled to any adjustment in the Contract Times with respect to a subsurface or physical condition if:

a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or

b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

c. Contractor failed to give the written notice as required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the extent of any adjustment in the Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided:

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1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
   a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
   b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
   c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
   d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

C. *Engineer's Review*: Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Possible Times Adjustments*:
1. Contractor shall be entitled to an equitable adjustment in the Contract Times to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes a substantial increase in cost to Contractor or time required for, performance of the Work, subject, however, to the following:

a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
c. Contractor provided notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the

costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, and up to the amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify, defend and hold harmless Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) but only to the extent arising out of or relating to (a) any personal injury or property damage; (b) the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or (c) to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own gross negligence.

J. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in Bidding Requirements or required in the Contract Documents. If so required, Contractor shall furnish and shall require all Subcontractors with subcontracts in excess of $100,000 to furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of in which the Project is located, in form and substance satisfactory to Owner and, without limitation, complying with the following specific requirements:
1. Bonds shall name Owner and WVID as dual obligees.
2. Bonds shall remain in effect for a period of not less than one (1) year following the date final payment is due or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever is longer.
3. The Performance Bond and Labor and Material Payment Bond shall each be in amount equal to the Contract Price and all subsequent increases.
4. Every Bond under this Paragraph must display the Surety Bond Number.

B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.

D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.

E. If Contractor has failed to obtain a Performance Bond and Labor and Material Payment Bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

G. Contractor shall comply will all bond requirements after any assignment of the Agreement pursuant to Section 9.2 of the Agreement and the Addendum to Agreement Upon Assignment (Exhibit L to Agreement).

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Agreement.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Agreement, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Agreement, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision; provided, however, that any such redaction by WVID, in the event the Agreement is assigned to it, shall be in compliance with Laws and Regulations.

E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

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G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.

H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
   a. Such insurance shall be maintained for three years after final payment.
   b. Contractor shall furnish Owner and each other additional insured (as identified in the Agreement or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.

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2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.
7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.

D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.

E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.

F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

G. *Additional insureds*: The Contractor's commercial general liability policy, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and its affiliates, assigns and each of their respective officers, directors, employees, agents, representatives, shareholders, and partners ("Owner Parties"), the West Villages Improvement District, City of North Port and Engineer, and any individuals or entities identified in the Agreement; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements. With respect to Contractor's general liability policy, the Owner Parties, West Villages Improvement District, City of North Port and Engineer shall be named as additional insureds arising out of Contractor's and its Subcontractor's Work, during the Contractor's and/or Subcontractor's operations and following the Contractor's and/or Subcontractor's completed operations. Contractor shall require all of its Subcontractors and Suppliers to add the Owner Parties as additional insureds.

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H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:

1. include at least the specific coverages provided in this Article.
2. be written for not less than the limits of liability provided in this Article and in the Agreement, or required by Laws or Regulations, whichever is greater.
3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 7 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

A. Owner will purchase and maintain, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall

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be no less than the amount of the Contract Price. Contractor shall bear the risk of loss to all equipment, tools, materials, supplies, job trailers, motor vehicles, cranes, and other equipment brought onto the Site. Contractor shall carry suitable insurance to protect against said risk of loss.

B. *Notice of Cancellation or Change*: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 7 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured

C. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 6.05 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any commercially reasonable deductible amounts.

D. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

E. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

F. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.

G. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

A. All policies purchased in accordance with Paragraph 6.05, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or any of their consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

B. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out

of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 6.05 will be adjusted with Owner and made and settled with the named insured that purchased the policy. Such named insured shall give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable to Owner in good faith for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed 24 hours per day, 7 days per week during all drilling or downhole operations. Working hours for surface work activities are understood to be 12 hours per day 6 days per week, Monday through Saturday 7:00a.m.-7:00p.m.

7.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
   a. in the exercise of reasonable judgment Engineer determines that:
      1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      3) it has a proven record of performance and availability of responsive service; and
      4) it is not objectionable to Owner.
   b. Contractor certifies that, if approved and incorporated into the Work:
      1) there will be no increase in cost to the Owner or increase in Contract Times; and
      2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is

complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price unless the approval will result in a reduction in the Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
   a. shall certify that the proposed substitute item will:
      1) perform adequately the functions and achieve the results called for by the general design,
      2) be similar in substance to that specified, and
      3) be suited to the same use as that specified.
   b. will state:
      1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from that specified, and

2) available engineering, sales, maintenance, repair, and replacement services.

d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.

B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.

K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.

N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

7.08 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work. Owner shall be responsible for obtaining and paying for the FDEP UIC Injection Well Construction Permit.

7.09 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor acknowledges that certain materials, supplies, and equipment may be purchased directly by Owner or Owner's assignee, including the City of North Port and West Villages Improvement District and are subject to applicable sales tax exemption.

C. Pursuant to Section 9.2 of the Agreement, and the Addendum to Agreement Upon Assignment (Exhibit L), Contractor shall comply with all WVID purchasing requirements, protocols, and any Laws and Regulations regarding Owner direct purchases.

7.10 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities,

and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

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7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements*:

1. Before submitting a Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings*:

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples*:

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and

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approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals*: Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review*:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures*:

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop

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Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

A. As more specifically provided in Paragraph 15.08, Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's general warranty shall be for a period of one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents). Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee. This warranty is in addition to any other warranty that may be provided by Suppliers, Subcontractors, manufacturers or otherwise as may be designated in the Project Drawings and Specifications.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal;

6. the issuance of a notice of acceptability by Engineer;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by Owner.

D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

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7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, and up to an amount of One Million and No/100 Dollars ($1,000,000) Contractor shall indemnify and hold harmless Owner, the West Villages Improvement District (WVID), and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor shall require a similar indemnity requirement in any subcontract agreements. The parties acknowledge that the indemnity limitation bears a reasonable commercial relationship to the Agreement and the services being provided and that this indemnity is intended to comply with the Florida laws on indemnity and specifically to comply with §725.06, *Florida Statutes*, including any amendments thereto, and is to be interpreted in such manner to be fully enforceable. If any word, provision, or clause of the Agreement or these General Conditions is determined not to be incompliance with §725.06, *Florida Statutes*, it shall be ineffective and the remaining words, provisions and clauses shall remain in full force and effect.

B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

D. Limitations On Governmental Liability. Nothing in these General Conditions shall be deemed as a waiver of immunity or limits of liability of the WVID beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes, or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

7.19 *Delegation of Professional Design Services*

A. Except as specified in the Agreement, Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.

B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other

work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be provided to Contractor prior to the start of any such other work:

1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
2. an itemization of the specific matters to be covered by such authority and responsibility; and
3. the extent of such authority and responsibilities.

B. Unless otherwise provided, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor may be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements, Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in Supplementary Conditions, if any.

10.04 *Rejecting Defective Work*

A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.

B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

C. Engineer's authority as to Change Orders is set forth in Article 11.

D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders*:

   a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.

   b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

2. *Work Change Directives*: A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Contract Price (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Contract Price:

a. for costs incurred under Paragraph 13.01 the Contractor's Fee shall be six percent (6%); and

b. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's Fee by an amount equal to six percent (6%) of such net decrease.

11.05 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

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11.06 *Change Proposals*

A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due, or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures*: Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action*: Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

3. *Binding Decision*: Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

B. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the

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parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and

4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner and or Contractor demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and

4. any other matter in dispute between the Owner, Contractor and or Engineer as long as all procedures necessary to make and preserve such matter in dispute have been followed.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.

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D. *Mediation*:

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – ALLOWANCES; UNIT PRICE WORK

13.01 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor has included a contingency allowance in the Contract Price to cover unanticipated costs. Contractor shall not be permitted to transfer any costs to the contingency allowance without first receiving written approval from Owner. Any

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unused contingency monies remaining at the end of the Project will be credited back to the Owner.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.02 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities. Upon final completion of the Work, the remaining balance of the Contract Price will be paid, or the total of units adjusted to equal the Contract Price.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
2. there is no corresponding adjustment with respect to any other item of Work; and
3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

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14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
3. by manufacturers of equipment furnished under the Contract Documents;
4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

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C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

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1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated, however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on portions of the Work actually installed, delivered or completed by Contractor during the pay period as further provided in the Agreement.

B. *Applications for Payments*:

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*:

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the

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Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

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D. *Payment Becomes Due*:

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. the Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. the Contract Price has been reduced by Change Orders;

i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;

j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

l. there are other items entitling Owner to a set off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor written notice (with a copy to Engineer) within fifteen (15) business days stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The

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reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor

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may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
   a. all documentation called for in the Contract Documents;
   b. consent of the surety, if any, to final payment;
   c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
   d. a list of all disputes that Contractor believes are unsettled; and
   e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien and bond rights arising out of the Work, and of Liens filed in connection with the Work.
3. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens

from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents, or any Laws and Regulations), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
2. correct such defective Work;
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 20 days in the aggregate by written notice to Contractor and Engineer and without increasing the Contract Price. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such extension shall be submitted no later than 20 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change

Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items) as its sole and exclusive remedy:

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and
3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 days in the aggregate by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

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ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this Article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this Article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Agreement; or
2. agree with the other party to submit the dispute to another dispute resolution process.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice as provided in the Agreement; or
3. delivered in a manner specified in the Agreement.

B. Wherever notice is served on Engineer, a copy must be provided to Owner.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

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18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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EXHIBIT D
FORM – NOTICE TO PROCEED

WEST VILLAGES CONSTRUCTION, LLLP
19503 S. West Villages Parkway, #14
Venice, Florida 34293

{insert date}, 2018

VIA EMAIL to Bill@youngquistbrothers.com
& OVERNIGHT FEDERAL EXPRESSS DELIVERY

C.W. (Bill) Musselwhite, Senior Vice President
Youngquist Brothers, Inc.
15465 Pine Ridge Road
Fort Myers, Florida 33908

Re: NOTICE TO PROCEED/Commencement of the West Villages Improvement District Class I Industrial Injection Well System and Two Single Zone Monitoring Wells and Other Work Described in the Agreement

Dear Mr. Musselwhite

Pursuant to Section 2.1.2 of the ____{insert date}_____ Agreement between {*note if this notice is served after assignment then insert "West Villages Improvement District as assignee of "*}West Villages Construction, LLLP ("Owner") and Youngquist Brothers, Inc. ("Contractor") (the "Agreement"), this letter hereby serves as Owner's Notice to Proceed as such term is provided in the Agreement.

Sincerely,

Paul J. Erhardt, President

cc: Mark McNeal, Chief Executive Officer
mmcneal@asrus.net
Ashley M. Miele, P.E. (via overnight delivery and email)
Ashley.Miele@kimley-horn.com

EXHIBIT E
RESOLUTION 2017-02, WEST VILLAGES IMPROVEMENT DISTRICT

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT AUTHORIZING AN INDIVIDUAL DESIGNATED BY THE BOARD OF SUPERVISORS TO ACT AS THE DISTRICT'S PURCHASING AGENT FOR THE PURPOSE OF PROCURING, ACCEPTING, AND MAINTAINING ANY AND ALL CONSTRUCTION MATERIALS NECESSARY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE OR COMPLETION OF THE DISTRICT'S INFRASTRUCTURE IMPROVEMENTS AS PROVIDED IN THE DISTRICT'S ADOPTED IMPROVEMENT PLAN; PROVIDING FOR THE APPROVAL OF A WORK AUTHORIZATION; PROVIDING FOR PROCEDURAL REQUIREMENTS FOR THE PURCHASE OF MATERIALS; APPROVING THE FORM OF A PURCHASE REQUISITION REQUEST; APPROVING THE FORM OF A PURCHASE ORDER; APPROVING THE FORM OF A CERTIFICATE OF ENTITLEMENT; AUTHORIZING THE PURCHASE OF INSURANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 189, *Florida Statutes*, for the purpose of constructing, installing, operating and/or maintaining infrastructure improvements and facilities; and

WHEREAS, the District Board of Supervisors (the "Board"), upon recommendation of the District Engineer, has adopted improvement plans for the construction and installation of certain infrastructure improvements within the District (the "Improvements"); and

WHEREAS, the District has or will enter into various construction contracts for the construction and installation of the Improvements (the "Construction Contracts"); and

WHEREAS, the Construction Contracts allow, or will be amended to allow, for the direct purchase by the District of certain construction materials necessary for those contracts; and

WHEREAS, the District has determined that such direct purchase of construction materials will provide a significant construction cost reduction that is in the best interest of the District; and

WHEREAS, the District desires to have a District representative who is familiar with the project and who is knowledgeable in the area of procuring and handling construction materials act as its representative.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The District Engineer, the District Manager or another individual as shall be appointed by the Board (hereinafter, the "Purchasing Agent") shall have the full authority of the District to issue purchase orders or enter into purchase agreements on behalf of the District at such times and intervals as it determines necessary for the timely receipt of construction materials required by the Contractor for the prosecution of the construction project(s).

SECTION 2. The Purchasing Agent shall purchase on behalf of the District only those materials identified in the Construction Contracts and in amounts not to exceed the cost amount contained therein and as included in the Construction Contracts.

SECTION 3. The Purchasing Agent shall be authorized to purchase on behalf of the District any additional construction materials that are identified in a schedule of values associated with any change order(s) to the Construction Contracts or that of any subcontractor to the Contractor which is approved by the District.

SECTION 4. Should the District Engineer act as the Purchasing Agent for any given Construction Contract, a work authorization of the District Engineer, a form of which is attached hereto as **Exhibit A**, is hereby approved and/or ratified, and the District Engineer shall be paid such reasonable fees, costs and expenses, related to its actions as the District's Purchasing Agent as provided for in the District Engineer's agreement with the District.

SECTION 5. The Purchasing Agent is further authorized to take any other administrative actions that are consistent with his/her duties as the District's Purchasing Agent, including but not limited to, negotiating for lower prices on materials from other suppliers, arranging for the storage, delivery, and protection of purchased materials, and sending and receiving notices and releases as are required by law.

SECTION 6. The District Manager is hereby directed to purchase Builders All Risk Insurance on behalf of the District and with the District as the named insured in such amounts as are necessary to cover the estimated costs of the construction materials pursuant to the Construction Contract.

SECTION 7. The procurement procedures and its exhibits, attached hereto as **Composite Exhibit B** and incorporated herein by reference, are hereby approved and/or ratified, and shall be used by the Purchasing Agent for the purchase of construction materials on behalf of the District.

SECTION 8. The actions of current and prior members of the Board and District staff in effectuating the District's direct purchase of materials relative to the Construction Contracts, including but not limited to the execution of any documents related therewith, are hereby

determined to be in accordance with the prior authorizations of the District's Chairman and/or the Board, and are hereby ratified, approved and confirmed all respects.

SECTION 9. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 10. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 9th day of March, 2017.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

3

EXHIBIT A

Work Authorization
March 9, 2017

Board of Supervisors
West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410

Subject: Work Authorization for Purchasing Agent Services

Dear Chairman, Board of Supervisors:

Stantec Consulting Services, Inc. ("Engineer") is pleased to submit this work authorization to provide engineering services for the West Villages Improvement District. We will provide these services pursuant to our current agreement dated May 26, 2015 (the "Engineering Agreement") as follows:

I. Scope of Work
The Engineer will act as Purchasing Agent for the District with respect to the direct purchase of construction materials for the District's improvements in accordance with the procurement procedures adopted by the Board of Supervisors.

II. Compensation
The Engineer will be compensated for this work at the hourly rates established pursuant to the Engineering Agreement.

III. Other Direct Costs
Other direct costs include items such as printing, drawings, travel, deliveries, et ceteras, pursuant to the Engineering Agreement.

This work authorization, together with the Engineering Agreement, represents the entire understanding between the District and the Engineer with regard to the referenced services and supersedes any previously executed proposal or agreement related to the provision of such services. If you wish to accept this work authorization, please sign where indicated and return to our office. Thank you for the opportunity to be of service.

APPROVED AND ACCEPTED

By: _____
Authorized Representative of
West Villages Improvement District
Date: _____

Sincerely,

By: _____
Stantec Consulting Services, Inc.

COMPOSITE EXHIBIT B

PROCUREMENT PROCEDURES FOR OWNER PURCHASED MATERIAL

1. Purchase Requisition Request Forms. At least ten (10) calendar days prior to CONTRACTOR ordering construction materials, CONTRACTOR shall prepare and forward to OWNER a separate Purchasing Requisition Request Form for each supplier in the form attached hereto as **Attachment 1**, specifically identifying the construction materials which CONTRACTOR plans to order from each supplier so that OWNER may, in its sole discretion, elect to purchase directly such construction materials.

2. Purchase Orders. After receipt of the Purchasing Requisition Request Form, the OWNER shall prepare Purchase Orders in the form attached hereto as **Attachment 2**, for construction materials which the OWNER wishes to purchase directly. Purchase Orders shall require that the supplier provide required shipping and handling insurance. Purchase Orders shall also require the delivery of the Owner Purchased Materials on the delivery dates provided by the CONTRACTOR in the Purchasing Requisition Request Form. Pursuant to the Purchase Order, the supplier will provide the CONTRACTOR the required quantities of construction material at the price established in the supplier's quote less any associated sales tax.

3. Certificate of Entitlement. The OWNER shall execute a separate Certificate of Entitlement for each Purchase Order in the form attached hereto as **Attachment 3**, and furnish a copy of same to the supplier and to the CONTRACTOR in accordance with Section 4. Each Certificate of Entitlement must have attached thereto the corresponding Purchase Order.

Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

Each Certificate of Entitlement shall affirm that: (1) the attached Purchase Order is being issued directly to the vendor supplying the tangible personal property the CONTRACTOR will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

4. Transmission of Certificate of Entitlement and Attached Purchase Order. At least two (2) calendar days prior to CONTRACTOR placing OWNER'S order for the construction materials, OWNER shall forward each Certificate of Entitlement, together with the attached Purchase Order, to CONTRACTOR and to supplier. Promptly upon receipt of the Owner Purchased Materials specified in each Purchase Order, CONTRACTOR shall verify the purchase of the Owner Purchased Materials in accordance with the terms of the Purchase Order and in a manner to assure timely delivery of the Owner Purchased Materials.

5. Notice of Reduction in Contract Price. On or about the last business day of each month, OWNER shall deliver to the CONTRACTOR a Notice of Reduction in Contract Price (hereinafter "Notice"). Each Notice shall list all Owner Purchased Materials for the respective month and the total price for all such construction materials, plus all sales taxes which would have been associated with such construction materials had the CONTRACTOR purchased the construction materials. Each Notice may also include the total price and sales tax (had CONTRACTOR purchased) for any previously purchased Owner Purchased Materials which for any reason were not previously deducted from the contract price. The contract price will be reduced automatically and as a ministerial task by the amount set forth in each Notice. Each Notice will also reflect the amended contract balance reflecting the deductions taken in said Notice.

The intent of this provision is to cause the contract price to be reduced automatically by the amount OWNER pays for Owner Purchased Materials plus the amount of applicable sales tax that would have been paid for such construction materials, had the CONTRACTOR or any other non-tax exempt entity purchased the construction materials. All savings of sales taxes shall accrue solely to the benefit of OWNER, and CONTRACTOR shall not benefit whatsoever from savings of any such taxes.

6. Payment for Owner Purchased Materials. In order to arrange for the prompt payment to suppliers, the CONTRACTOR shall provide to the OWNER a list indicating on behalf of the owner of the Owner Purchased Materials within fifteen (15) calendar days of receipt of said Owner Purchased Materials. The list shall include a copy of the applicable Purchase Orders, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the OWNER. Upon receipt of the appropriate documentation, the OWNER shall prepare a check drawn to the supplier based upon the receipt of data provided. OWNER will

make payment to each supplier. The CONTRACTOR agrees to assist the OWNER to immediately obtain appropriate partial or final release of waivers.

OWNER shall be responsible for the full payment of all valid and due invoices for Owner Purchased Materials and shall not be entitled to retain the standard ten (10%) percent amount of the progress payment due to the CONTRACTOR as is otherwise provided for in the contract documents.

CONTRACTOR shall affirm that the vendor supplying the Owner Purchased Materials is not also the installer of the Owner Purchased Materials. CONTRACTOR shall further affirm that the installer of the Owner Purchased Materials did not manufacture, fabricate or furnish the Owner Purchased Materials.

7. CONTRACTOR Responsibilities. CONTRACTOR shall be fully responsible for all matters relating to ordering, storing, protecting, receipt, and handling for all construction materials including Owner Purchased Materials, in accordance with these procedures including, but not limited to, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the contract documents, inspection and acceptance on behalf of the owner of the construction materials at the time of delivery, and loss or damage to the construction materials following acceptance of construction materials, due to the negligence of the CONTRACTOR. CONTRACTOR shall serve as bailee with respect to such Owner Purchased Materials. The CONTRACTOR shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the CONTRACTOR for the construction materials furnished including Owner Purchased Materials. The CONTRACTOR shall provide all services required for the unloading, handling and storage of construction materials through installation including Owner Purchased Materials. The CONTRACTOR agrees to indemnify and hold harmless the OWNER from any and all claims of whatever nature resulting from non-payment for Owner Purchased Materials arising from CONTRACTOR actions.

7.1 Inspection and Documentation. As Owner Purchased Materials are delivered to the job site, CONTRACTOR shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for construction materials delivered. The CONTRACTOR shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the OWNER may require. All invoices for Owner Purchase Materials shall include the Owner's consumer certificate of exemption number. The CONTRACTOR will then forward all such invoices to the OWNER. On or about the 15th and last day of each month (or the next succeeding business day), CONTRACTOR shall review all invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site(s) during that month and either concur or object to the OWNER's issuance of payment to the suppliers, based upon CONTRACTOR's records of Owner Purchased Materials delivered to the site and whether any defects or non-conformities exist in such Owner Purchased Materials.

7.2 Warranties, Guarantees, Repairs and Maintenance. The CONTRACTOR shall be responsible for obtaining and managing on behalf of the Owner all warranties and guarantees for all construction materials as required by the contract documents and shall fully warrant all construction materials including all Owner Purchased Materials. OWNER's purchase of various construction materials shall not in any manner impact or reduce CONTRACTOR's duty to warrant said construction materials. The OWNER may forward all repair, maintenance, non-conforming construction materials calls, or any other issues relating to the construction materials to the CONTRACTOR for resolution with the appropriate supplier, vendor, or subcontractor. The CONTRACTOR shall resolve all such calls or issues.

7.3 Records and Accountings. The CONTRACTOR shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession as bailee. The CONTRACTOR shall account monthly to the OWNER for any Owner Purchased Materials delivered into the CONTRACTOR's possession, indicating portions of all such construction materials which have been incorporated into the work.

7.4 Defective or Non-conforming Construction Materials. The CONTRACTOR shall ensure that Owner Purchased Materials conform to specifications, and determine prior to incorporation into the work if such construction materials are defective or non-conforming, whether such construction materials are identical to the construction materials ordered, and match the description on the bill of lading. If the CONTRACTOR discovers defective or non-conforming Owner Purchased Material upon such visual inspection, the CONTRACTOR shall not utilize such non-conforming or defective construction materials in the work and instead shall promptly notify the OWNER of the defective or non-conforming conditions so repair or replacement of such construction materials can occur without any undue delay or interruption to the Project. If the CONTRACTOR fails to adequately and properly perform such inspection or otherwise incorporates into the Project defective or non-conforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, CONTRACTOR shall be responsible for all damages to OWNER resulting from CONTRACTOR's incorporation of such construction materials into the Project, including liquidated or delay damages.

8. Title. Notwithstanding the transfer of Owner Purchased Materials by the OWNER to the CONTRACTOR's possession as bailee for the OWNER, the OWNER shall retain legal and equitable title to any and all Owner Purchased Materials.

9. Insurance and Risk of Loss. The OWNER shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to Owner Purchased Materials. Owner shall be the named insured and such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project during the period between the time the OWNER first takes title to any such Owner Purchased Materials and the time when the last of such Owner Purchased Materials is incorporated into the Project or consumed in the process of completing the Project.

10. No Damages for Delay. The OWNER shall in no way be liable for, and CONTRACTOR waives all claims for, any damages relating to or caused by alleged interruption or delay due to ordering or arrival of Owner Purchased Materials, defects, or other problems of any nature with such construction materials, late payment for such construction materials, or any other circumstance associated with Owner Purchased Materials, regardless of whether OWNER's conduct caused, in whole or in part, such alleged damages. The foregoing waiver by CONTRACTOR includes damages for acceleration and inefficiencies. CONTRACTOR accepts from OWNER as further and specific consideration for the foregoing waivers, OWNER's undertaking to pay for and finance all Owner Purchased Materials.

Attachment I

PURCHASE REQUISITION REQUEST FORM

1. Contact Person for the material supplier.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

2. Manufacturer or brand, model or specification number of the item.

_____

_____

3. Quantity needed as estimated by CONTRACTOR. _____
4. The price quoted by the supplier for the construction materials identified above.

$_____
5. The sales tax associated with the price quote. $_____
6. Shipping and handling insurance cost. $_____
7. Delivery dates as established by CONTRACTOR. _____

OWNER: West Villages Improvement District

_____ _____

Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____

Authorized Signature (Title) Date

Attachment 2

PURCHASE ORDER

1. **SEE ATTACHED PURCHASE REQUISITION REQUEST FORM DATED_____, 20__.**

2. West Villages Improvement District's State of Florida sales tax exemption certificate number: **85-8013154648C-1**

West Villages Improvement District is the Purchaser of the construction materials purchased pursuant to this Purchase Order. Supplier shall provide for the required shipping and handling insurance cost for delivery of the construction materials by the delivery date specified in this Purchase Order.

OWNER: West Villages Improvement District

_____ _____
Authorized Signature (Title) Date

CONTRACTOR: _____

_____ _____
Authorized Signature (Title) Date

Attachment 3

CERTIFICATE OF ENTITLEMENT

The undersigned authorized representative of West Villages Improvement District (hereinafter "Governmental Entity"), Certificate of Exemption Number 85-8013154648C-1, affirms that the tangible personal property purchased pursuant to Purchase Order Number _____ from _____ (Vendor) on or after _____, 20__ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to Contract # _____ with _____ (Name of Contractor) for the construction of _____.

The Governmental Entity affirms that the purchase of the tangible personal property contained in the attached Purchase Order meets the following exemption requirements contained in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C.:

You must initial each of the following requirements.

____ 1. The attached Purchase Order is issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works.

____ 2. The vendor's invoice will be issued directly to Governmental Entity.

____ 3. Payment of the vendor's invoice will be made directly by Governmental Entity to the vendor from public funds.

____ 4. Governmental Entity will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor.

____ 5. Governmental Entity assumes the risk of damage or loss at the time of purchase or delivery by the vendor.

The Governmental Entity affirms that if the tangible personal property identified in the attached Purchase Order does not qualify for the exemption provided in Section 212.08(6), F.S., and Rule 12A-1.094, F.A.C., the Governmental Entity will be subject to the tax, interest, and penalties due on the tangible personal property purchased. If the Florida Department of Revenue determines that the tangible personal property purchased tax-exempt by issuing this Certificate does not qualify for the exemption, the Governmental Entity will be liable for any tax, penalty, and interest determined to be due.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. Under the penalties of perjury, I declare that I have read the foregoing Certificate of Entitlement and the facts stated in it are true.

_____ _____
Signature of Authorized Representative of Governmental Entity Title

West Villages Improvement District _____
Purchaser's Name Date

Federal Employer Identification Number: 51-0520502

Telephone Number: (561) 630-4922

You must attach a copy of the Purchase Order to this Certificate of Entitlement. Do not send to the Florida Department of Revenue. This Certificate of Entitlement must be retained in the Vendor's and the Contractor's books and records.

EXHIBIT F
RESOLUTION 2016-21, WEST VILLAGES IMPROVEMENT DISTRICT

RESOLUTION 2016-21

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District"), is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended (the "Special Act"), and is situated in the City of North Port, Florida and unincorporated Sarasota County, Florida; and

WHEREAS, the Special Act authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the Board of Supervisors (the "Board") finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as Exhibit A for immediate use and application; and

WHEREAS, the Board has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board may amend these rules in accordance with Chapter 2004-456, *Laws of Florida*, as amended, and shall replace and supersede any previously-adopted Rules of Procedure.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 10th day of November, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson

Exhibit A: Rules of Procedure

RULES OF PROCEDURE
WEST VILLAGES IMPROVEMENT DISTRICT

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Rule 1.0 General.

(1) The West Villages Improvement District (the "District") was created pursuant to the provisions of Chapter 2004-456, *Laws of Florida*, as amended, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.

(3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 1.1 Board of Supervisors; Officers and Voting.

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall consist of five (5) members. Members of the Board ("Supervisors") appointed by ordinance or rule or elected by landowners must be citizens of the United States of America. Supervisors elected by resident electors must be citizens of the United States of America, and residents and owners of real property within either the City of North Port, Florida or unincorporated Sarasota County, as applicable, in accordance with Chapter 2004-456(4), *Laws of Florida*, as amended. The Board shall exercise the powers granted to the District under Florida law.

(a) Supervisors shall hold office for the term specified by Chapter 2004-456(4), *Laws of Florida* as amended. If, during the term of office, any Board member(s) vacates their office, the remaining Board members, within ninety (90) calendar days of the vacancy, shall fill such vacancy until the expiration of that seat's outstanding term when a successor shall be elected. If three (3) or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.

(b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.

(c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.

(d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.

(2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.

(a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District's behalf. The Chairperson shall convene and

conduct all meetings of the Board. In the event the Chairperson is unable to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

(b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Chapter 2004-456(4)(5) and 10(9), *Laws of Florida*, as amended, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars ($1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in the amount of one million dollars ($1,000,000) that names the District as an additional insured.

(e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

(f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

(g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.

(3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions in accordance with Chapter 2004-456(3)(2)(aa), *Laws of Florida*, as amended. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.

(4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.

(5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286, *Florida Statutes*.

(6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by Chapter 112, *Florida Statutes*. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.

(a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

(b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.

(c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.

(d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(2)(aa), (4) and 10(9), Laws of Florida, as amended; § 112.3143, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

(a) Agenda packages for prior 24 months and next meeting;

(b) Official minutes of meetings, including adopted resolutions of the Board;

(c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;

(d) Adopted plans of improvements or engineer's reports;

(e) Adopted assessment methodologies/reports;

(f) Limited Offering Memorandum for each financing undertaken by the District;

(g) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;

(h) District policies and rules;

(i) Fiscal year end audits; and

(j) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records

request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

(3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.

(4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of $0.15 per page for one-sided copies and $0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar ($1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of an individual who is qualified to perform the labor. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in the section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars ($25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. After the request has been fulfilled, additional payments or credits may be due.

(5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.

(6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.07, 119.0701, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

(1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:

(a) The date, time and place of the meeting, hearing or workshop;

(b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;

(c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and

(d) The following language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 630-4922. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770, who can aid you in contacting the District Office."

(e) The following language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based."

(f) The following language: "The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record."

(2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.

(3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare a notice and an agenda of the meeting/hearing/workshop. The notice and agenda shall be available to the public at least seventy-two (72) hours before the meeting/hearing/workshop except in an emergency. For good cause, the agenda may be changed after it is first made available for distribution. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

Call to order
Roll call
Public comment
Organizational matters
Review of minutes
Specific items of old business
Specific items of new business
Staff reports
  (a) District Counsel
  (b) District Engineer
  (c) District Manager
    1. Financial Report
    2. Approval of Expenditures
Supervisor's requests and comments
Public comment
Adjournment

(4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.

(5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office.

Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.

(6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.

(7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.

(8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Chapter 2004-456(16), *Laws of Florida*, as amended, and Section 189.016, *Florida Statutes*. Once adopted, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.

(9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

(10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however,

at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.

(11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.

(12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:

(a) The Board identifies on the record at the original meeting a reasonable need for a continuance;

(b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and

(c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.

(13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorneys must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with

the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15) and (16), Laws of Florida, as amended; §§ 189.015, 189.016, 286.0105, 286.011, 286.0114, Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

(1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A "rule" is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District ("Rule"). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 2004-456, *Laws of Florida*, as amended. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.

(2) Notice of Rule Development.

(a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.

(3) Notice of Proceedings and Proposed Rules.

(a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

(b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing. Notice will then be mailed to all persons whom, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its proceedings.

(4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.

(5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District, or has substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.

(6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

(a) The text of the proposed rule, or any amendment or repeal of any existing rules;

(b) A detailed written statement of the facts and circumstances justifying the proposed rule;

(c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and

(d) The published notice.

(7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.

(8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.

(9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.

(10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

(a) The texts of the proposed rule and the adopted rule;

(b) All notices given for a proposed rule;

(c) Any statement of estimated regulatory costs for the rule;

(d) A written summary of hearings, if any, on the proposed rule;

(e) All written comments received by the District and responses to those written comments; and

(f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

(a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.

(c) The petition shall be filed with the District. Within ten (10) days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(d) Within thirty (30) days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.

(e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the

existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:

(i) Administer oaths and affirmations;

(ii) Rule upon offers of proof and receive relevant evidence;

(iii) Regulate the course of the hearing, including any pre-hearing matters;

(iv) Enter orders; and

(v) Make or receive offers of settlement, stipulation, and adjustment.

(f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(12) Variances and Waivers. A "variance" means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A "waiver" means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:

(a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District's Rule. Each petition shall specify:

(i) The rule from which a variance or waiver is requested;

(ii) The type of action requested;

(iii) The specific facts that would justify a waiver or variance for the petitioner; and

(iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

(d) The Board shall grant or deny a petition for variance or waiver, and shall announce such disposition at a publicly held meeting of the Board, within sixty (60) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

(13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(u), Laws of Florida, as amended

Rule 3.0 Competitive Purchase.

(1) Purpose and Scope. In order to comply with Sections 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.

(3) Definitions.

(a) "Competitive Solicitation" means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.

(b) "Continuing Contract" means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed one million dollars ($1,000,000), for a study activity when the fee for such Professional Services to the District does not exceed fifty thousand dollars ($50,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.

(c) "Contractual Service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

(d) "Design-Build Contract" means a single contract with a Design-Build Firm for the design and construction of a public construction project.

(e) "Design-Build Firm" means a partnership, corporation or other legal entity that:

(i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.

(f) "Design Criteria Package" means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District's Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(g) "Design Criteria Professional" means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.

(h) "Emergency Purchase" means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the

funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

(i) "Invitation to Bid" is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.

(j) "Invitation to Negotiate" means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.

(k) "Negotiate" means to conduct legitimate, arm's length discussions and conferences to reach an agreement on a term or price.

(l) "Professional Services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.

(m) "Proposal (or Reply or Response) Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:

(i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;

(ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and

(iii) For a cost to the District deemed by the Board to be reasonable.

(n) "Purchase" means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

(o) "Request for Proposals" or "RFP" is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated

and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

(p) "Responsive and Responsible Bidder" means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. "Responsive and Responsible Vendor" means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:

(i) The ability and adequacy of the professional personnel employed by the entity/individual;

(ii) The past performance of the entity/individual for the District and in other professional employment;

(iii) The willingness of the entity/individual to meet time and budget requirements;

(iv) The geographic location of the entity's/individual's headquarters or office in relation to the project;

(v) The recent, current, and projected workloads of the entity/individual;

(vi) The volume of work previously awarded to the entity/individual;

(vii) Whether the cost components of the bid or proposal are appropriately balanced; and

(viii) Whether the entity/individual is a certified minority business enterprise.

(q) "Responsive Bid," "Responsive Proposal," "Responsive Reply," and "Responsive Response" all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: Ch. 2004-456(J)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under The Consultants' Competitive Negotiations Act.

(1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.

(2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:

(a) Hold all required applicable federal licenses in good standing, if any;

(b) Hold all required applicable state professional licenses in good standing;

(c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and

(d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

(3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. Consultants who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail. The Board has the right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not

receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

(a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:

(i) The ability and adequacy of the professional personnel employed by each consultant;

(ii) Whether a consultant is a certified minority business enterprise;

(iii) Each consultant's past performance;

(iv) The willingness of each consultant to meet time and budget requirements;

(v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;

(vi) The recent, current, and projected workloads of each consultant; and

(vii) The volume of work previously awarded to each consultant by the District.

(b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.

(c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

(d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all

consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

(a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.

(b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."

(c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

(d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.

(8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(2)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts.

(1) Definitions.

(a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(b) "Committee" means the audit selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Audit Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an audit selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee should include at least three individuals, some or all of whom may also serve as members of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

(a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District.

(i) Hold all required applicable federal licenses in good standing, if any;

(ii) Hold all required applicable state professional licenses in good standing;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with

Chapter 607 of the Florida Statutes, if the proposer is a corporation; and

(iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

(b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:

(i) Ability of personnel;

(ii) Experience;

(iii) Understanding of scope of work;

(iv) Ability to furnish the required services; and

(v) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

(4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.

(5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals ("RFP"). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

(6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of

the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.

(7) Board Selection of Auditor.

(a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm.

(c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

(d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.

(8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by

both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services;

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;

(c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than July 1 of the fiscal year that follows the fiscal year for which the audit is being conducted;

(d) A provision specifying the contract period, including renewals and conditions under which the contract may be terminated or renewed. No contract shall continue, or allow the contract to be renewed, for a period of more than three years from the date of its execution. A renewal may be done without the use of the auditor selection procedures provided in this Rule, but must be in writing.

(e) Provisions required by law that require the auditor to comply with public records laws.

(9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(15), Laws of Florida, as amended; §§ 119.0701, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

(1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.

(2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:

(a) The Board shall cause to be prepared a Notice of Invitation to Bid.

(b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.

(c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. Persons who provide their name and address to the District Manager for inclusion on the list shall receive notices by mail.

(d) Bids shall be opened at the time and place noted in the Invitation to Bid.

(e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.

(f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.

(g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance shall be awarded to that company whose response to the

Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

(h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

(1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.

(2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:

(a) The Board shall cause to be prepared a Request for Qualifications.

(b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.

(c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars ($250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars ($250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars ($500,000).

(d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.

(e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

(g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.

(h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.

(i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

(1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 2005-338, Laws of Florida, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals,

Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening, provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.

(i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of construction services, which steps may include a direct purchase of the construction services without further competitive selection processes.

(3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.

(6) Exceptions. This Rule is inapplicable when:

(a) The project is undertaken as repair or maintenance of an existing public facility;

(b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

(c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

(d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

(1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.

(b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.

(c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications based selection process pursuant to Rule 3.1.

(i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.

(ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars ($500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:

   a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;

   b. Hold all required applicable federal licenses in good standing, if any;

   c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;

   d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

   Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

   Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting, and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.

5. The Board shall have the right to reject all proposals if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.

6. If less than three (3) proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no proposals are received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of design-build services, which steps may include a direct purchase of the design-build services without further competitive selection processes.

7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.

9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package, and shall provide the Board with a report of the same.

(3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

   (a) The project is undertaken as repair or maintenance of an existing public facility;

   (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;

   (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or

   (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 189.053, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

(1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work, and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.

(2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of $200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.

(3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding $200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

(1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of "goods, supplies, and materials" do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) bids, proposals, replies, or responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of goods, supplies, and materials, which steps may include a

direct purchase of the goods, supplies, and materials without further competitive selection processes.

(3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

(4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.

(5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 189.053, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

(1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.

(2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:

(a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

(b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

(d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.

(e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:

(i) Hold the required applicable state professional licenses in good standing;

(ii) Hold all required applicable federal licenses in good standing, if any;

(iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and

(iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

(f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening, provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

(g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.

(h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

(i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.

(j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may take whatever steps reasonably necessary in order to proceed with the procurement of maintenance services, which steps may include a direct purchase of the maintenance services without further competitive selection processes.

(3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.

(4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever period is longer.

(5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

(6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: §§ 119.0701, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

(1) Exemption from Competitive Purchase. Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.

(2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: § 119.07, Fla. Stat.

Rule 3.11 Protests With Respect To Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

(a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.

(c) If disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9, the Board may require any person who files a notice of protest to post a protest bond in the amount equal to 1% of the anticipated contract amount

that is the subject of the protest. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

(d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.

(2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.

(3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.

(4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect or an irregularity in the competitive solicitation process, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

Rule 4.0 Effective Date.

These Rules shall be effective _____, 2016, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended
Law Implemented: Ch. 2004-456(3)(1)(a) and (b), Laws of Florida, as amended

EXHIBIT G
WAIVER AND RELEASE OF LIEN/RIGHT TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

WAIVER AND RELEASE OF LIEN/RIGHT
TO CLAIM AGAINST BOND UPON PROGRESS PAYMENT

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says that

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor")

2. Affiant represents that (a) he/she has authority to execute this Waiver and Release of Lien/Right to Claim Against Bond Upon Progress Payment (collectively the "Release") for and on behalf of the Contractor, and (b) the facts stated herein are true and correct

3. Pursuant to a contract between *{note – after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership (the "Owner") and Contractor dated _____ (the "Contract"), the Contractor furnished labor, materials, goods and/or services in connection with the construction of certain improvements to the property more particularly described in the Contract as _____*{insert property description}*_____ (the "Property")

4. The Contractor has submitted an Application for Payment to Owner in connection with this Release

5. As of the date of this Release, the Contractor has performed, or caused to be performed, all of the work and delivered all material shown on the current Application for Payment submitted to Owner

6. Upon receipt from Owner the payment in the amount of $_____, the Contractor hereby waives and releases its lien and/or right to claim a lien, or right to claim against any bond for labor, services, and/ or materials furnished through _____ *{Insert date of current Application for Payment}* with respect to the Property and Contract

7. Attached hereto as Exhibit G-1 is a true and correct list of all subcontractors, laborers, suppliers, materialmen, and other persons or entities which provided labor, services, and/or materials in connection with the current Application for Payment. Except as specifically provided in Exhibit G-1 (if any), all sums due to materialmen, subcontractors, mechanics, laborers and suppliers of goods and services incorporated into the above referenced Property have been paid and satisfied in full, and there are no outstanding claims of any character arising out of Contractor's activities pursuant or ancillary to the performance of its Contract with the Owner

8. The Contractor hereby acknowledges receipt of the sum of $_____ in connection with the prior Application for Payment submitted to Owner on _____ *{Insert date of prior Application for Payment}*, and hereby unconditionally waives and releases its lien and/or right to claim a lien or claim against any bond for labor, services, or materials furnished through _____ *{Insert date of prior Application for Payment}* with respect to the Property and Contract

9. The Contractor further waives and releases any and all claims of any type or description whatsoever, whether known or unknown, against Owner arising out of, or related to, any labor, materials or services furnished on, or used in connection with, the Property and Contract as of the date of this Release. Moreover, the Contractor hereby represents that there are no claims, notices, or suits for payment, loss, or damage of any kind, nature, or description whatsoever as of the date of this Release which arise out of, or relate to, in any respect, the Contractor's work with respect to the Property in connection with the Contract except as specifically provided in Exhibit G-1 (if any)

10. This Release constitutes a representation by the Contractor that the payments specified above constitute full and complete payment for all work performed, and costs or expenses incurred (including, but not limited to, costs for supervision, field office overhead, home office overhead, interest on capital, profit and conditions costs) relative to the work or improvements at the Property in connection with the Contract as of the referenced dates. The Contractor hereby specifically waives and releases any claims for damages due to delay, hindrance, interference, acceleration, inefficiencies or extra work, or any other claim of any kind that it may have against Owner arising out of, or related to, any work performed at the Property in connection with the Contract as of the date of this Release

11. This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida

YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation

By _____
Print Name _____
Title _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida Profit Corporation, and that the information contained herein is true and correct to the best of his/her knowledge

(Notarial Seal)

_____
Printed Name _____
NOTARY PUBLIC
Commission No _____
State/Commonwealth of _____
My Commission Expires _____

RESOLUTION 2016-22

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the West Villages Improvement District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, Laws of Florida, being situated in the City of North Port and Sarasota County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the "Board") accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WEST VILLAGES IMPROVEMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 8th DAY OF December, 2016.

ATTEST: **WEST VILLAGES IMPROVEMENT DISTRICT**

Secretary/Assistant Secretary

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

WEST VILLAGES IMPROVEMENT DISTRICT

Prompt Payment Policies and Procedures

In Accordance With the Local Government Prompt Payment Act
Chapter 218, Part VII, Florida Statutes

_____, 2016

West Villages Improvement District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("PPA"), the purpose of the West Villages Improvement District ("District") Prompt Payment Policies and Procedures ("Policies & Procedures") is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent

The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services

All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services

The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped

Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, "Date Stamped" shall mean the date of actual receipt by the Agent.

E. Improper Invoice

An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request

A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services

All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice

An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request

A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider

Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase

The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor

Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General

Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent's confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors ("Board") or when provided for in the applicable agreement.

B. Sales Tax

Providers should not include sales tax on any invoice or payment request. The District's current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers

Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. Proper Invoice for Non-Construction Goods and Services

All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The "Bill To" party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
   a. A complete item description
   b. Quantity purchased
   c. Unit price(s)
   d. Total price (for each item)
   e. Total amount of invoice (all items)
   f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
   a. Itemized description of services performed
   b. The location and date of delivery of the services to the District
   c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
   d. Itemization of other direct, reimbursable costs (including description and amount)
   e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
      i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
      ii. Paid receipt
      iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District's Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. Mailing and Drop Off Address

_____
c/o _____
_____
_____

2. Email Address

_____

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. Receipt of Proper Invoice

Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. Receipt of Improper Invoice

If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:

a. On which delivery of personal property is fully accepted by the District;
b. On which services are completed and accepted by the District;
c. On which the contracted rental period begins (if applicable); or
d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. Rejection of an Improper Invoice

The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. Payment of Undisputed Portion of Invoice

If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. Receipt of Proper Payment Request

The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. Receipt and Rejection of Improper Payment Request

a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. Payment of Undisputed Portion of Payment Request

If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor

If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.

2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.

3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars ($10,000).

5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.

6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services
All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services
All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest
If the total amount of interest paid during the preceding fiscal year exceeds $250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

EXHIBIT I
FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

FINAL PAYMENT AFFIDAVIT AND UNCONDITIONAL FINAL WAIVER AND RELEASE OF LIEN/BOND UPON FINAL PAYMENT

BEFORE ME, the undersigned authority, personally appeared _____ ("Affiant"), who after being by me first duly sworn, deposes and says that

1. Affiant is the _____ of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation (the "Contractor"), and Affiant represents that he/she has authority to execute this Final Payment Affidavit and Unconditional Final Waiver and Release of Lien/Bond Upon Final Payment (the "Release") for and on behalf of the Contractor.

2. Pursuant to a contract dated _____, 20__ (the "Agreement") between *{note: after assignment insert "West Villages Improvement District as assignee of"}* West Villages Construction, LLLP, a Florida limited liability limited partnership and Contractor, pertaining to certain property more particularly described in the Agreement as _____ (the "Property"), the Contractor has submitted a final Application for Payment to Owner in connection with this Release (the "Payment Application").

3. The Contractor represents that all Work to be performed under the Agreement is fully completed, and except as specifically provided in **Exhibit I-1** (if any) attached, all persons and firms who furnished material, labor and/or services incident to the completion of said work have been paid in full, including, but not limited to, those who have filed a Notice to Owner/Notice of Intent to Claim Against Bond. There are no unpaid bills of any nature for labor, materials or services furnished for the construction or repair of any improvements and that all fixtures have been paid for in full.

4. There are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of any activities pursuant or ancillary to the performance of its Agreement with the Owner.

5. Except as specifically provided in Exhibit I-1 (if any), there are no claims of lien, claims against any bonds, notices of non-payment, or any suits or claims for payment, loss or damage of any kind, nature or description which might constitute a lien upon the Property or claim against any bond as of the date of this Release.

6. This Release is executed in conjunction with the final payment under the Agreement between the Contractor and the Owner. This Release is specifically made for the benefit of the Owner and may be relied upon unconditionally by the Owner. This Release may also be relied upon by any party dealing with the Property, including, but not limited to, any purchaser, any holder of a mortgage or deed to secure debt, any owner, any tenant or lessee holding a legal or equitable interest in the Property, any title insurance company insuring title to Property (or any portion thereof or any interest therein), and any successor or assign of the above-referenced parties.

7. In consideration of the final payment in the amount of $_____, Contractor hereby absolutely and unconditionally forever waives and releases its lien and right to claim a lien, or claim against any bond, for labor, services, or materials furnished to West

Villages Construction, LLLP, or its assigns with respect to the Property in connection with the Agreement.

8 This Release constitutes a representation by Contractor, that the payment referenced above constitutes full and complete payment for all work performed, and costs or expense incurred, or related to the Property, that the Contractor hereby waives, quitclaims and releases any claim of any kind it may have against the Owner or the Property arising out of work performed under its contract with the Owner. The Contractor warrants and represents that it has not assigned or transferred any of its rights or claims concerning its Contract with the Owner, or concerning the Property, to any other person or party.

9 This Release is made by the Contractor with full knowledge of the applicable laws of the State of Florida.

DATED on _____, 2018.

YOUNGQUIST BROTHERS, INC., a Florida corporation

By _____
Print Name _____
Title _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of Youngquist Brothers, Inc., a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

_____
Printed Name _____
NOTARY PUBLIC
(Notarial Seal) Commission No. _____
State/Commonwealth of _____
My Commission Expires _____

EXHIBIT J
INSURANCE REQUIREMENTS

4847-0746-5823 6

INSURANCE EXHIBIT J

PROJECT INSURANCE REQUIREMENTS AND MINIMUM CONTRACTOR INSURANCE REQUIREMENTS

1. Owner shall purchase and maintain as a project cost the following insurance policies and required coverage with at least the following minimum limits during the term of this Agreement and, as provided herein:
   a. Builders Risk insurance with the following limits and coverages:
      i. One hundred percent (100%) of the full replacement costs of the work, including, but not limited to, all improvements to the property performed by the Contractor, and without any co-insurance requirements or penalties.
      ii. ii. Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, rain, wind-driven rain, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.
      iii. iii. Such coverage shall also extend to portions of the Work stored offsite, in transit, and all other equipment and machinery to be used in the fabrication or erections of construction of the Project (not to include Contractor's or any subcontractors machinery, tools or other equipment).
      iv. iv. Contractor shall be responsible for the deductible for the first two losses under the Builders Risk policy except for those losses that are exclusively fortuitous in nature or are deemed to be acts of God.
2. The Contractor shall purchase and maintain and cause all additional contractors and subcontractors to purchase and maintain the following insurance: a. The Contractor shall maintain and shall cause all subcontractors to maintain in effect at all times and at its own expense the following lines of insurance at the sole cost to the Contractor and/or subcontractor;
      i. Workers Compensation: Statutory workers' compensation for all employees of the Contractor and Subcontractors with maximum available limits together with Employers' liability coverage of at least Five Hundred Thousand Dollars ($1,000,000) each accident for bodily injury by accident, Five Hundred Thousand Dollars ($1,000,000) policy limit for bodily injury by disease including death at any time resulting therefrom, and Five Hundred Thousand Dollars ($1,000,000) each employee for bodily injury by disease including death at any time resulting therefrom (including "insurers'" waiver of subrogation rights in favor of Contractor). Such policies maintained by Contractor and Subcontractors shall be endorsed to be primary coverage and any coverage carried by Owner or Indemnitees shall be excess and non-contributory.
      ii. Commercial General Liability: Such coverage shall be the primary general liability for all activities conducted by Contractor and any and all

subcontractor for the project, with limits of not less than Two Million Dollars ($2,000,000) per occurrence, Two Million Dollars ($2,000,000) general aggregate, or limits carried, whichever is greater, for bodily injury, property damage and personal injury liability on a per project basis (except as otherwise noted), Two Million Dollars ($2,000,000) Products-Completed Operations and Two Million Dollars ($2,000,000) Personal and Advertising Injury, that:

1. Products Completed Operations coverage must be maintained for ten (10) years after completion of the Project or the statute of repose, whichever is greater.
2. Policies shall name Owner, Contractor and each entity's officers, directors, partners, members, employees and agents (collectively, the "Additional Insureds") as additional insureds for claims caused in whole or in part by the Contractor's and/or subcontractor's negligent acts or omissions during the Contractor's and/or Subcontractor's operations or following the Contractor's and/or subcontractor's completed operations.
3. Defense costs shall be outside of the policy limits.
4. Affords thirty (30) days written notice to the Additional Insureds prior to cancellation, non-renewal or amendment (excepting amendments naming additional insureds); and
5. Endorsing that such insurance policy as primary as respects the Additional Insureds, and any claim, loss, or liability arising from the insureds operation, and that any other insurance maintained by the Additional Insureds is excess and non-contributing with the insurance required hereunder.
6. Contractor or any contractors or subcontractors shall be responsible for their own tools and equipment and all associated property insurance.
7. Shall contain no exclusion or restriction for residential development or construction.

iii. Business/Automobile: Business automobile liability covering liability arising out of any auto (including owned, hired, leased and non-owned vehicles, trucks and trailers) with limits of not less than One Million Dollars ($1,000,000) combined single limit each accident, or limits carried, whichever is greater. Defense costs shall be outside of the policy limits. The business automobile liability insurance shall include contractual liability coverage and additional insured status for Owner.

iv. Umbrella/Excess Liability Insurance: A policy with a per occurrence and annual aggregate limit of Five Million Dollars ($5,000,000), or limits carried, whichever is greater, per location/project. Coverage shall be in excess of Commercial General Liability, Auto Liability and Employers' Liability insurance with such coverage being on a follow form basis and not more restrictive than underlying insurance. The Contractor shall, by specific endorsement to its Umbrella/Excess Liability policy, cause the coverage afforded to the Additional Insureds thereunder to be first tier umbrella/excess coverage above the primary coverage afforded to the Additional Insureds as set forth in this Agreement and not concurrent with or excess to any other

valid and collectible insurance available to the Additional Insureds whether provided on a primary or excess basis. It is the specific intent of the parties that Contractor procure the excess carriers' agreement to waive and or forego any viable "horizontal exhaustion" rights it might have in regard to any insurance any Indemnitee might carry for its own benefit or on the behalf of other Indemnitees. All subcontractors will be required to carry a minimum umbrella limit of One Million Dollars ($1,000,000), or limits set forth within each subcontract agreement, whichever is greater.

v. Contractor's Pollution Liability Insurance: Contractor shall maintain Contractors Pollution insurance in the amount of One Million Dollars and shall cause any subcontractor engaged in Environmental Abatement or Remediation work, or if any subcontractor's work will involve use, treatment, storage, removal or transport of Hazardous Materials at, to or from, the site, subcontractor must obtain Contractor's Pollution Liability or equivalent coverage in an amount not less than One Million Dollars ($1,000,000) each occurrence or terms satisfactory to Owner, including additional insured status for Owner where available and such policy must provide coverage for accidental release of asbestos.

Contractor's and subcontractors' insurance shall be primary and non-contributory with regard to any other insurance that may be available to Owner and any additional insured. All insurance policies, other than worker's compensation, employer's liability, shall name Owner and their respective officers, partners, members, agents, employees, constituents, and affiliate entities as additional insureds for this Project. Any deductibles shall not exceed $25,000, unless Owner approves in writing, and Contractor is responsible for all deductibles and self-insured retentions.

All policies required of Contractor and any subcontractors shall be primary and non-contributory unless otherwise stated herein.

3. Contractor hereby waives, and shall cause all of their respective subcontractors, sub-subcontractors, agents and employees, to waive all causes of action or claims they may have against Owner to the extent such claims or causes of action are covered by any insurance required to be carried by the waiving party hereunder. The Contractor and any subcontractors shall have all such policies appropriately endorsed with waiver of subrogation endorsements, to the extent such endorsements are available on commercially reasonable terms.

   Any insurance limits required herein are minimum limits only and not intended to restrict the liability imposed on any person or entity for work performed in connection with this Agreement.

4. All such insurance shall be with a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, having a S&P Rating of A- or better, or a rating of A-VIII or better by AM Best, such insurance as will protect Owner from claims set forth above which may arise out of or result from the operations under this Agreement and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

EXHIBIT K
FORM ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF AGREEMENT

This Assignment and Assumption of Agreement ("Assignment") is entered into this _____ day of _____, _____ ("Effective Date") by and between WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership ("West Villages") and WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government ("WVID") (West Villages and WVID are each a "Party" and collectively referred to as the "Parties"). Based upon the mutual promises and agreements set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

WITNESSETH

WHEREAS, West Villages and YOUNGQUIST BROTHERS, INC., a Florida Profit Corporation ("Contractor") entered into that certain Agreement dated _____ ("Agreement") for the construction of the Class I Injection Well System together with Two Single Zone Monitor Wells and other work more fully described in the Agreement. A copy of the Agreement, including all change orders approved to date, is attached and incorporated as Exhibit K-1.

WHEREAS, Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, which is attached hereto as Exhibit K-2.

WHEREAS, West Villages has obtained a release from Contractor acknowledging the assignment of the Agreement and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes*, and waiving any and all claims against the WVID arising from or related to this Assignment, which is attached hereto as Exhibit K-3; and

WHEREAS, West Villages desires to assign the Agreement to WVID, and WVID agrees to accept such assignment.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. West Villages represents that: (i) it, and each individual executing this Assignment on its behalf, has full power and authority to enter into this Assignment and any other agreement, document or instrument delivered in connection herewith, (ii) to the best of West Villages' knowledge and belief, the making and performance of this Assignment by it will not result in any breach of any term, condition or provision of, or constitute a default under, any contract, agreement, organizational document or other instrument, or result in a breach of any regulation, order, writ, injunction or decree of any court or any commission, board or other administrative agency, to which it is a party or by which it may be bound, (iii) all approved payments to Contractor and any subcontractors or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement other than as specifically provided herein.

2 As of the Effective Date, West Villages hereby assigns, transfers and delivers all of its right, title and interest in and to the Agreement and all of its obligations and duties of the Agreement, and pursuant to the terms and provisions of this Assignment, and WVID accepts such assignment as of the Effective Date, and assumes as of the Effective Date, and agrees to perform and comply with the obligations of Owner as set forth in the Agreement that are to be performed from and after the Effective Date, in accordance with the terms and provisions of this Assignment

3 This Assignment shall be governed by and construed and enforced in accordance with the laws of the State of Florida The provisions of this Assignment shall bind and inure to the benefit of the heirs, representatives, successors and assigns of the Parties

4 This Assignment may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment

[Signature page follows]

In witness whereof, the Parties have caused this Assignment to be executed as of the Effective Date set forth above.

"WEST VILLAGES"

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By THOMAS RANCH VILLAGES GP, LLC, a Delaware limited liability company Its General Partner

By THOMAS RANCH MANAGER, LLC, a Delaware limited liability company Its Manager

By _____
Print Name _____
Its

_____
Print Name _____

_____
Print Name _____

"WVID"

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By _____
Print Name Martin P Black
Its Chairperson, Board of Supervisors

Exhibit K-1
Agreement

See attached

Exhibit K-2
Bonds

See attached

Exhibit K-3
Release

See attached

YOUNGQUIST BROTHERS, INC
15465 Pine Ridge Road
Fort Myers, Florida 33908

ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

For Ten and No/100 Dollars ($10.00) and such additional good and valuable consideration received in hand, the receipt and sufficiency of which are hereby acknowledged, Youngquist Brothers, Inc., a Florida corporation ("Contractor"), hereby agrees as follows:

1. The agreement ("Agreement") between WEST VILLAGES CONSTRUCTION LLLP, and Contractor dated _____, has been assigned to and assumed by the WEST VILLAGES IMPROVEMENT DISTRICT ("WVID") Contractor acknowledges and accepts such assignment and its validity.

2. Contractor represents and warrants that Contractor has furnished and recorded a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond.

3. Contractor represents and warrants that all payments to Contractor and any Subcontractors suppliers or materialmen under the Agreement are current and there are no outstanding disputes under the Agreement except as may be specifically provided below:

_____{insert description of any outstanding dispute}

4. Contractor hereby releases and waives any claim it may have against West Villages and WVID as a result of or in connection with such assignment.

In witness whereof, executed this ____day of _____, 2018.

"CONTRACTOR"

_____
Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

_____
Print Name _____

By _____
Print Name _____
Title _____
Date _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who is personally known to me or who has produced _____ as identification, and who executed the foregoing instrument, of his/her own free will, and who, after having been sworn, acknowledged before me that he/she had authority to execute this document on behalf of **YOUNGQUIST BROTHERS, INC.**, a Florida corporation, and that the information contained herein is true and correct to the best of his/her knowledge.

(Notarial Seal)

_____
Printed Name _____
NOTARY PUBLIC
Commission No. _____
State/Commonwealth of _____
My Commission Expires _____

EXHIBIT L
ADDENDUM TO AGREEMENT UPON ASSIGNMENT

ADDENDUM TO AGREEMENT UPON ASSIGNMENT

This Addendum to Agreement Upon Assignment (the or this "Addendum") is made to the _____ ___, 2018 Agreement between West Villages Construction LLLP and Youngquist Brothers, Inc., a Florida corporation (the "Agreement") as such Agreement was assigned by West Villages Construction, LLLP to West Villages Improvement District, a local unit of special purpose government ("WVID"). A copy of the Agreement is attached hereto and incorporated herein as **Exhibit L-1**. All definitions and capitalized terms herein shall have the same meanings as in the Agreement.

In consideration of the parties entering into the Agreement the mutual covenants and agreements contained therein and in this Addendum, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, hereby amend the Agreement as follows:

1. ASSIGNMENT. This Addendum applies to that certain Agreement between the WVID and Contractor, which Agreement was assigned to the WVID simultaneous with the execution of this Addendum. To the extent the terms of the Agreement conflict with this Addendum, the terms of this Addendum shall control.

2. PAYMENT AND PERFORMANCE BONDS, NO LIEN RIGHTS. Consistent with the requirements of Section 255.05 of the *Florida Statutes*, Contractor shall have executed, delivered to the WVID, and recorded in the public records of Sarasota County, Florida, a payment and performance bond with a surety insurer authorized to do business in this state as surety or, to the extent permitted by the WVID in its sole discretion, provide an alternative form of security as authorized under Section 255.05 of the *Florida Statutes*. Such bond and/or security shall be for 100% of the Project Contract Price and shall be in effect for a full year from the time of completion of the Project. Contractor agrees that the WVID is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, as against the WVID or the WVID's property, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

3. INSURANCE. The WVID, its officers, governing board, agents, staff, and representatives, and WEST VILLAGES CONSTRUCTION LLLP, shall be named as additional insured's under the insurance provided pursuant to the Agreement. Contractor shall furnish the WVID with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the WVID. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the WVID has the right (without any obligation to do so, however) to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the WVID's obtaining the required insurance.

4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Agreement, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80 of the *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, *Florida Statutes*. All payments due and not made within the time prescribed by Section 218.735, *Florida Statutes*, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

5. INDEMNIFICATION. Contractor shall defend, indemnify, hold harmless the WVID as provided in the Agreement.

6. RETAINAGE. Section 5.1.4 of the Agreement regarding retainage is replaced with the following:

> Prior to 50 percent completion of the Work pursuant to the Agreement, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding 10 percent of the payment. After 50 percent completion of the construction services, the Contractor may present an Application for Payment for up to one half of the retainage held, less such amounts as may be withheld pursuant to this Agreement or applicable law. After 50 percent completion of the Work, and until final completion and acceptance of the Work by Owner and Engineer, the Owner shall reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to Contractor. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

7. TAX EXEMPT DIRECT PURCHASES. The parties agree that the WVID may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Agreement. In such event, the following conditions shall apply:

i. The WVID represents to Contractor that the WVID is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer Exemption Certificate.

ii. The WVID may elect to implement a direct purchase arrangement whereby the WVID will directly acquire certain materials ("Direct Purchase Materials") necessary for the work directly from the suppliers to take advantage of WVID's tax exempt status.

iii. Prior to purchasing any materials, the Contractor shall contact the WVID to determine which materials will be treated as Direct Purchase Materials.

iv. The WVID shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule 12A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement

shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works, (2) the vendor's invoice will be issued directly to the WVID, (3) payment of the vendor's invoice will be made directly by the WVID to the vendor from public funds, (4) the WVID will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor, and (5) unless provided otherwise provided by WVID resolution, the WVID assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.

v. The WVID shall issue purchase orders directly to suppliers of Direct Purchase Materials. The WVID shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the WVID and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.

vi. Upon delivery of the Direct Purchase Materials to the jobsite, the WVID shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the WVID shall accept and take title to the Direct Purchase Materials.

vii. Suppliers shall issue invoices directly to the WVID. The WVID shall process invoices and issue payment directly to the suppliers from public funds.

viii. Unless otherwise provided by WVID resolution, upon acceptance of Direct Purchase Materials, the WVID shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.

ix. The WVID shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

8. PUBLIC RECORDS. Contractor understands and agrees that all documents of any kind provided to the WVID or to WVID staff in connection with the work contemplated under the Agreement may be public records and shall be treated as such in accordance with Florida law. In particular, Developer agrees to comply with all applicable provisions of Florida law relating to public records, including but not limited to Section 119.0701 of the *Florida Statutes*, the terms of which are expressly incorporated herein. The WVID may unilaterally cancel the Agreement for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), *Florida Statutes*.

Contractor shall return to WEST VILLAGES CONSTRUCTION LLLP, and otherwise continue to maintain the confidentiality of, any confidential or proprietary information furnished or made available by WEST VILLAGES CONSTRUCTION LLLP. The WVID shall in no way be liable for the disclosure of confidential or proprietary information provided by Contractor to the WVID or WVID staff in connection with the project and in response to a request for public records pursuant to Chapter 119, Florida Statutes.

9. SOVEREIGN IMMUNITY. Nothing in the Agreement shall be deemed as a waiver of the WVID's sovereign immunity or the WVID's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

10. NOTICES. Notices provided to the WVID pursuant to the Agreement shall be provided as follows:

WVID: West Villages Improvement District
_____
_____
_____
Attn _____

With a copy to:
Hopping Green & Sams, P.A.
119 South Monroe, Suite 300 (32301)
Post Office Box 6526
Tallahassee, Florida 32314

12. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to section 287.135(5), *Florida Statutes*, regarding Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-2**. If the Contractor is found to have submitted a false certification as provided in section 287.135(5), *Florida Statutes*, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria, the WVID may immediately terminate the Agreement.

13. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit L-3**.

14. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to

execute such sworn statement. The statements shall be substantially in the form of the attached Exhibit L-4.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, *FLORIDA STATUTES*, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

"CONTRACTOR"

Print Name _____

Print Name _____

YOUNGQUIST BROTHERS, INC., a Florida corporation

By _____
Print Name _____
Title _____
Date _____

"WVID"

Print Name _____

Print Name _____

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special purpose government

By _____
Print Name: Martin P. Black
Its: Chairperson, Board of Supervisors

Exhibit L-1 Agreement
Exhibit L-2 Scrutinized Companies Statement
Exhibit L-3 Public Entity Crimes Statement
Exhibit L-4 Trench Safety Act Statement

4842-9342-1152.1

EXHIBIT L-2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by _____
(print individual's name and title)

for Youngquist Brothers, Inc
(print name of entity submitting sworn statement)

whose business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____
Signature by authorize representative

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4842-9342-1152.1

EXHIBIT L-3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), *FLORIDA STATUTES*, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of _____ for Youngquist Brothers, Inc. ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor

3. Contractor's business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

4. Contractor's Federal Employer Identification Number (FEIN) is _____

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement _____)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), *Florida Statutes*, means

a. A predecessor or successor of a person convicted of a public entity crime, or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

4842-8342-1152 1

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

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

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989. AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

4842-8342-1152 1

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this_____ day of_____, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., a Florida corporation, who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

4842-8342-1152 1

EXHIBIT L-4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C F R.s. 1926 650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price

This form must be certified in the presence of a notary public or other officer authorized to administer oaths

CERTIFICATION

1. I understand that Chapter 90 96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F R s. 1926 650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project

2. The estimated cost imposed by compliance with The Trench Safety Act will be

_____Dollars $_____
(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price

Dated this _____ day of_____, 2018

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS

Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price

This form must be certified in the presence of a notary public or other officer authorized to administer oaths

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
		Project Total	

Dated this _____ day of_____, 2017

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By _____
Its _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this_____day of_____, 2018, by _____, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

_____
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used

EXHIBIT M
SCHEDULE OF VALUES

West Villages Improvement District Class I Industrial Injection Well System
PART 1 - Injection Well IW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
1.1	Mobilize and Demobilize All Equip. to the IW-1 Well Site to Complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for IW-1 Complete. Including Field Office, Temporary Drilling Pad, Four Water Table Monitoring Wells, and Temporary On Site Storage for a Minimum 105,000 Gallons of Water Discharged During Testing Activities	LS	1	$ 1,600,000.00	$ 1,600,000.00
1.2.	Furnish and Install Nominal 82-Inch Pit Casing, Complete	LS	1	$ 367,500.00	$ 367,500.00
1.3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques Including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 2,100 feet (Reverse-Air) Including drill stem special capacity test and water sampling	FT	1,500	$ 93.00	$ 171,000.00
1.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 62-inch Diameter up to 300 feet bls (Mud Rotary)	FT	300	$ 85.00	$ 23,800.00
	b. 84-inch Diameter up to 1,000 feet bls (Reverse-Air)	FT	700	$ 95.00	$ 66,500.00
	c. 44-inch Diameter up to 1,500 feet bls (Reverse-Air)	FT	500	$ 73.00	$ 37,500.00
	d. 24-inch Diameter up to 2,100 feet bls (Reverse-Air)	FT	600	$ 50.00	$ 30,000.00
1.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	b. 62-inch Reamed Hole to 300 feet	EA	1	$ 17,100.00	$ 17,100.00
	c. Pilot Hole 300 to 1,000 feet	EA	1	$ 17,100.00	$ 17,100.00
	d. 54-inch Reamed Hole to 1,000 feet	EA	1	$ 23,750.00	$ 23,750.00
	e. Pilot hole 1,000 to 2,100 feet	EA	1	$ 23,750.00	$ 23,750.00
	f. Reamed Hole to 1,800 feet	EA	1	$ 23,750.00	$ 23,750.00
	g. Completed Well (Video camera survey and caliper log)	EA	1	$ 23,750.00	$ 23,750.00
	h. Temperature Log Performing Earth Cement Stage	EA	24	$ 355.00	$ 8,542.00
	i. Cement Bond Log on 24-inch Final Steel Casing	EA	1	$ 23,750.00	$ 23,750.00
	j. Cement Bond Log on 12-inch FRP Casing	EA	1	$ 23,750.00	$ 23,750.00
	Temperature and External Radioactive Tracer Survey for MIT	EA	1	$ 28,500.00	$ 28,500.00
1.6.	Furnish and Install Casing:				
	a. 54-inch Dia. Carbon Steel	FT	300	$ 171.00	$ 51,300.00
	b. 44-inch Dia. Carbon Steel	FT	1,000	$ 143.00	$ 143,000.00
	c. 24-inch Dia. Carbon Steel	FT	1,500	$ 142.00	$ 214,500.00
	d. 22-inch Dia. Red Bra 1282 FRP Tubing	FT	1,800	$ 237.00	$ 426,600.00
1.7.	Grout Casing - Grout Carbon Steel Casing and FRP Tubing from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	8,200	$ 14.00	$ 114,800.00
	b. Up to 6% Bentonite	FT3	13,800	$ 11.00	$ 151,800.00
1.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	43	$ 308.00	$ 12,320.00
1.9.	Pressure Test Casing - Successfully Complete Pressure Test on Casings, Complete				
	a. Final 24-inch Dia Steel Casing	LS	1	$ 28,500.00	$ 28,500.00
	b. 22-inch Red Bra 1250 FRP Tubing	LS	1	$ 28,500.00	$ 28,500.00
1.10.	Rock Cores - During Pilot Hole or Open Hole Drilling, Provide 10 Feet Length, 4 Inch Diameter Cores at Selected Intervals, Complete	FT	50	$ 570.00	$ 28,500.00
1.11.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping Test, Complete	EA	8	$ 7,600.00	$ 60,800.00
1.12.	Packer Test Pumping Time Including Development, Complete	HR	162	$ 380.00	$ 61,300.00
1.13.	Redevelopment - Develop Injection Well by Air Lifting, Complete	HR	9	$ 380.00	$ 3,042.00
1.14.	Temporary Wellhead - Complete Wellhead in accordance with the Drawings, Complete	LS	1	$ 2,500.00	$ 2,500.00
1.17.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
1.18.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. Water Table Monitoring Wells Weekly Compliance Samples	EA	36	$ 285.00	$ 10,260.00
	b. List A - air lift and packer test samples	EA	18	$ 475.00	$ 7,900.00
	c. List B - air-lift and packer test samples	EA	32	$ 475.00	$ 15,450.00
	d. List C and B-qui samples for FDS (completed well)	EA	1	$ 3,822.00	$ 3,822.00

TOTAL PART 1 $ 4,054,192.00

PART 2 - Monitor Well LZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
2.1.	Mobilize and Demobilize All Equip. to the LZMW-1 Well Site to complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for LZMW-1. Complete Including Temporary Drilling Pad.	LS	1	$ 157,000.00	$ 157,000.00
2.2.	Set Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
2.3.	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques Including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 1,250 feet (Reverse-Air)	FT	950	$ 85.00	$ 80,750.00
2.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 54-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Diameter to 1,200 feet (Reverse-Air)	FT	900	$ 30.00	$ 27,000.00
2.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction, and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,250 feet	EA	1	$ 11,400.00	$ 11,400.00
	d. Reamed 18-inch Hole to 1,200 feet	EA	1	$ 11,400.00	$ 11,400.00

	e. Completed Well - Video Camera Survey and Caliper Log	EA	1	$ 13,300.00	$ 13,300.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
2.6.	Furnish and Install Casing:				
	a. 18-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 8-inch Dia. FRP to 1,200 feet	FT	1,200	$ 38.00	$ 45,600.00
2.7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	430	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,700	$ 9.00	$ 24,300.00
2.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	18	$ 308.00	$ 4,928.00
2.9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
2.10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
2.11.	Temporary Wellhead - Complete Wellhead in Accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
2.12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	3	$ 4,750.00	$ 14,250.00
2.13.	Packer Test Pumping Time including Development, Complete	HR	36	$ 380.00	$ 13,680.00
2.14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
2.15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	18	$ 475.00	$ 8,550.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 2 $ 617,704.00

PART 3 - Monitor Well UZMW-1 Cost

ITEM No.	DESCRIPTION	U/M	EST QTY	UNIT COST	EXTENDED COST
3.1	Mobilize and Demobilize All Equip. to the UZMW-1 Well Site to complete Drilling in a 24 Hr/Day, 7 Day/Week Schedule, and Testing Activities for UZMW-1. Complete. Including Temporary Drilling Pad.	LS	1	$ 123,000.00	$ 123,000.00
3.2.	Furnish and Install Pit Casing, Complete	LS	1	$ 71,250.00	$ 71,250.00
3.3	Drill Pilot Hole - Drill Nominal 8 to 12-¼ -Inch Dia. Pilot Hole Using Mud Rotary or Reverse-Air Drilling Techniques Including collecting cutting samples and deviation surveys, Complete to Depth of:				
	a. 300 feet (Mud Rotary)	FT	300	$ 85.00	$ 25,500.00
	b. 1,000 feet (Reverse-air)	FT	700	$ 93.00	$ 65,100.00
3.4.	Pilot Hole Reaming of Open Hole to Depth of:				
	a. 54-inch Diameter to 300 feet (Mud Rotary)	FT	300	$ 50.00	$ 15,000.00
	b. 18-inch Diameter to 950 feet (Reverse-air)	FT	650	$ 30.00	$ 19,500.00
3.5.	Geophysical Logging - Furnish, Setup, Operate, and Remove all Equip. to Conduct Borehole Geophysical Logs in Accordance with Table GL-1, and additional logs per the Construction and Testing Procedures Plan on the:				
	a. Pilot Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	b. Reamed 24-inch Hole to 300 feet	EA	1	$ 11,400.00	$ 11,400.00
	c. Pilot Hole to 1,000 feet	EA	1	$ 11,400.00	$ 11,400.00

	d. Reamed 18-inch Hole to 950 feet	EA	1	$ 11,400.00	$ 11,400.00
	e. Completed Well (Video Camera Survey and Caliper Log)	EA	1	$ 13,300.00	$ 13,300.00
	f. Cement Bond Log on Final FRP Casing	EA	1	$ 11,400.00	$ 11,400.00
3.6.	Furnish and Install Casing:				
	a. 18-inch Dia. Carbon Steel to 300 feet	FT	300	$ 50.00	$ 15,000.00
	b. 8-inch Dia. FRP to 1,200 feet	FT	950	$ 38.00	$ 36,100.00
3.7.	Grout Casing - Grout Carbon Steel and FRP Casings from Bottom to Land Surface and Pilot Holes Prior to Reaming Using ASTM Type II Cement with up to:				
	a. 0% Bentonite (Neat)	FT3	430	$ 11.00	$ 4,950.00
	b. Up to 6% Bentonite	FT3	2,300	$ 9.00	$ 19,800.00
3.8.	Gravel - Furnish and Emplace Clean Gravel Used to Plug Cavities, Complete	YD3	18	$ 308.00	$ 4,928.00
3.9.	Pressure Test Final FRP Casing	LS	1	$ 14,250.00	$ 14,250.00
3.10.	Development - Develop Well by Air Lifting, Complete	HR	8	$ 380.00	$ 3,040.00
3.11.	Temporary Wellhead - Complete Wellhead in Accordance with the Drawings, Complete	LS	1	$ 1,000.00	$ 1,000.00
3.12.	Packer Test Set up - Furnish, Setup, Operate, and Remove all Equip. Necessary to Run Packer Pumping	EA	1	$ 4,750.00	$ 4,750.00
3.13.	Packer Test Pumping Time Including Development, Complete	HR	36	$ 380.00	$ 13,680.00
3.14.	Standby Time (Max. 12 hr/day)	HR	12	$ 380.00	$ 4,560.00
3.15.	Water Sampling - Purge Wells and Collect, Analyze, and Report Water Samples in Accordance with Table WQ-1 for:				
	a. List B (air-lift and packer test samples)	EA	13	$ 475.00	$ 6,175.00
	b. List C (completed well sample)	EA	1	$ 3,821.00	$ 3,821.00

TOTAL PART 3 $ 528,104.00

BASE LUMP SUM PRICE $ 5,200,000.00

APPLICABLE TO FINAL PAY REQUEST ONLY --> RECONCILIATION TO ACHIEVE BASE LUMP SUM PRICE $ -

FINAL LUMP SUM PRICE $ 5,200,000.00

PART 4 - Contingent Item Cost

Below items are not included in the Base Lump Sum Price.
Use of Contingent Item Billing is subject to Engineer / Owner direction.

Ream Nom. 34-inch Diameter Hole to 300 feet		FT	300	$	80.00	$ 24,000.00
24-inch Dia. Carbon Steel Casing to 300 feet		FT	300	$	120.00	$ 36,000.00
Geophysical Logging (Reamed Hole to 900 ft)		EA	1	$	11,450.00	$ 11,450.00
Ream Nominal 24 inch Diameter to 900 feet (Mud Rotary)	(Additional to 2.4a)	FT	900	$	50.00	$ 30,000.00
16 inch Dia. Carbon Steel to 900 feet	(Additional to 2.5a)	FT	900	$	50.00	$ 30,000.00
Additional Cement Up to 8% Bentonite	(Additional to 2.7b)	FT3	1000	$	8.00	$ 8,000.00
Wellhead Allowance		EA	1	$	100,000.00	$ 100,000.00
Steel Tariff Adjustment		LS	1	$	57,250.00	$ 57,251.00
Delay in Issuance of Full NTP (UIC Permit, and Site access) beyond July 9, 2018		DAY	60	$	1,500.00	$ 90,000.00
TOTAL PART 4 - CONTINGENT ITEMS						$ 387,651.00

Baez, Odette

From: Baez, Odette
Sent: Tuesday, May 01, 2018 4:28 PM
To: Baez, Odette
Subject: FW: Change-Pro Comparison

From: Bill Musselwhite [mailto:bill@youngquistbrothers.com]
Sent: Friday, April 27, 2018 8:47 AM
To: Paul Erhardt <Paul.Erhardt@mattamycorp.com>
Cc: CHarper@foley.com; OBaez@foley.com; Harvey Youngquist <Harvey@YoungquistBrothers.Com>
Subject: Re: Change-Pro Comparison

Paul,
Yes, you are correct July 10 is 1x$1500, July 13 is 4x$1500, etc. The "60" is hypothetical ... we hope it is much less or none.
Bill

Sent from my iPhone

On Apr 27, 2018, at 7:40 AM, Paul Erhardt <Paul.Erhardt@mattamycorp.com> wrote:

> Just to clarify because I find the 60 days confusing -- the payment is the actual number of days past July 9th, if any, x the daily rate. In other words if we get the permit on July 10th it is one day delay, and does not trigger an automatic 60 day payment. I assume that is what we all intend and the 60 is just a hypothetical quantity?
>
> I would expect I would sign on Monday when I am back in the office; we are still waiting for the WVID counsel comments, if any. Very likely in the May WVID meeting, or June, we would assign to the WVID.
>
> Paul

EXHIBIT N
FDEP UIC PERMIT

(TO BE PROVIDED UPON RECEIPT)

EXHIBIT O
FINANCING AND CONSTRUCTION FUNDING AGREEMENT FOR WASTEWATER TREATMENT PLANT

FINANCING AND CONSTRUCTION FUNDING AGREEMENT FOR WASTEWATER TREATMENT PLANT

This Financing and Construction Funding Agreement (the "Agreement") is made and entered into this 8th day of March, 2018, by and between:

WEST VILLAGES IMPROVEMENT DISTRICT, a local unit of special-purpose government located in the City of North Port, Florida and unincorporated Sarasota County, Florida (the "District"); and

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership with a mailing address of 4901 Vineland Road, Suite 450, Orlando, Florida 32811 (the "Developer").

RECITALS

WHEREAS, the District is a local unit of special-purpose government created and existing pursuant to Chapter 2004-456, *Laws of Florida*, as amended for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District owns certain real property within its boundaries upon which the Developer planned to construct a wastewater treatment plant and appurtenant facilities (collectively, the "Facility"), and

WHEREAS, the Developer now desires for the District to undertake the construction of the Facility and has or will assign the contract(s) for the design, engineering, and/or construction of the Facility to the District (collectively, the "Construction Contracts"); and

WHEREAS, the District, pursuant to Chapters 179 and 190, *Florida Statutes*, is authorized to issue bonds, levy special assessments, taxes, fees, and other charges as may be necessary in furtherance of the District's infrastructure program, activities and services; and

WHEREAS, in the future, the District expects to access the public bond market to provide for the financing of the Project, however the District currently does not have sufficient funds available to 1) construct the Facility, including construction and any engineering, legal, or other related costs (collectively, the "Project"), or 2) secure the financing of the Project by bonds or other indebtedness ("Financing"); and

WHEREAS, the Developer accordingly desires to fund the District's costs and expenses relative to the financing and construction of the Project in advance of the District's issuance of bonds or other indebtedness for such purposes; and

WHEREAS, the District shall reimburse Developer for funds paid to the District under this Agreement as described in more detail herein.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. PROVISION OF FUNDS. Developer agrees to make available to the District such monies as are reasonably necessary to proceed with the Financing and construction of the Project prior to the District's issuance of bonds or other indebtedness for such purposes.

A. Within fourteen (14) days of the effective date of this agreement, the Developer shall remit an advance payment of the funds needed for the construction of the Project in the amount of two million dollars ($2,000,000.00), which amount shall be kept in an account separate from the other funds of the District and shall only be utilized for construction costs relative to the Project.

B. Developer agrees to provide to the District any such monies upon receipt of an invoice from the District requesting such funds. Such funds, and all future funds provided pursuant to this Agreement, may be supplied by check, cash, wire transfer or other form of payment deemed satisfactory in the sole discretion of the District as determined by the District Manager. The District agrees to authorize District staff, including the District Engineer, District Manager, and District Counsel to proceed with the work contemplated by this Agreement, and to retain construction contractors, Bond Counsel, Financial Advisor, and any other professional assistance as may be necessary to proceed with the work contemplated by this Agreement. Notwithstanding anything to the contrary, Developer's obligation to fund the amounts described in this Agreement are contingent upon Developer's prior written approval of all such costs and expenses which shall not be unreasonably withheld. Developer shall respond to District's payment requests within five business days from receipt. A failure of Developer to respond to District's payment request within such five business day period shall be deemed Developer's acceptance of District's payment request and Developer shall timely make the requested payment. Notwithstanding anything to the contrary, Developer has approved the existing scope of work and budget for the Project as of the date of this Agreement.

C. Developer and the District agree that all reasonable and necessary fees, costs or other expenses incurred by the District for 1) construction of the Facility, or 2) the services of the District's Engineer, Counsel, Manager, Bond Counsel, Financial Advisor or other professionals, for the work contemplated by this Agreement shall be paid solely from the funds provided by Developer pursuant to this Agreement. Such payments shall be made in accordance with the District's normal invoice and payment procedures. The District agrees that any funds provided by Developer pursuant to this Agreement shall be used solely for fees, costs, and expenses arising from or related to the work contemplated by this Agreement.

D. The District agrees to provide to Developer, on a monthly basis, copies of all invoices, requisitions, or other bills for which payment is to be made from the funds provided by Developer. The District agrees to provide to Developer, monthly, a statement from the District Manager showing funds on deposit prior to payment, payments made, and funds remaining on deposit with the District.

E. Developer agrees to provide funds within fifteen (15) days of receipt of written notification from the District Manager of the need for such funds.

F. In the event that Developer fails to provide any such funds pursuant to this Agreement, the Developer and the District agree the work may be halted until such time as sufficient funds are provided by Developer to ensure payment of the costs, fees or expenses which may be incurred in the performance of such work.

2. TERMINATION. Developer and District agree that Developer may terminate this Agreement without cause by providing ten (10) days written notice of termination to the District. Any such termination by Developer is contingent upon Developer's provision of sufficient funds to cover any and all fees, costs or expenses incurred by the District in connection with the work to be performed under this Agreement as of the date by when notice of termination is received. Developer and the District agree that the District may terminate this Agreement due to a failure of Developer to provide funds in accordance with Section 1 of this Agreement, by providing ten (10) days written notice of termination to Developer; provided, however, that the Developer shall be provided a reasonable opportunity to cure any such failure.

3. CAPITALIZATION.

A. In the event that the District issues bond, notes or other indebtedness to fund the construction of the Project, such indebtedness may only be secured by land within the District that, as of the effective date of this Agreement, is undeveloped. Accordingly, the District shall not issue bonds, notes or other indebtedness that is secured by any lands, and shall not impose special assessments on any lands, relative to the Project that have been platted as of the effective date of this Agreement.

B. The parties agree that all funds provided by Developer pursuant to this Agreement may be reimbursable from proceeds of District financing relative to the Project, and that within forty-five (45) days of receipt of the proceeds by the District of bonds or notes for the Project, the District shall reimburse Developer in full, exclusive of interest, for these advances. In the event that District bonds to finance the Project are not issued within five (5) years of the date of this Agreement, the District shall issue to Developer, or Developer's assignee, a credit towards future District taxes or capital assessments in the amount of all funds provided by Developer pursuant to this Agreement which may be allocated by Developer or Developer's assignee as a credit to land within the District that is undeveloped as of the effective date of this Agreement.

C. Notwithstanding the foregoing, nothing herein shall obligate the District to issue such bonds or other indebtedness to finance the Project. The obligation of the District to reimburse the Developer for monies advanced under this Agreement shall survive any termination of this Agreement. In addition, a default by Developer under this Agreement shall not relieve District's obligation to reimburse Developer for monies advanced under this Agreement and District shall owe such monies regardless of a Developer default, but nothing shall preclude District from seeking any available remedies of District due to a Developer default as permitted in Paragraph 4. Developer shall have the right to assign any taxes or capital assessments allocated by District under this paragraph to any third party in Developer's sole discretion. Upon notice to District that such taxes or capital assessments have been assigned, District shall provide the assignee written confirmation that the taxes or assessments are in the name of assignee.

4. DEFAULT. A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief and/or specific performance.

5. ENFORCEMENT OF AGREEMENT. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees, paralegal fees, expert witness fees and costs for trial, alternative dispute resolution, or appellate proceedings.

6. AGREEMENT. This instrument shall constitute the final and complete expression of this Agreement between the parties relating to the subject matter of this Agreement.

7. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.

8. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

9. NOTICES. All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. If to District: West Villages Improvement District
2501-A Burns Road
Palm Beach Gardens, Florida 33410
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: Jonathan T. Johnson

B. If to Developer: West Villages Construction, LLLP

4901 Vineland Road, Suite 450
Orlando, Florida 32811
Attn: Leslie Candes

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the parties. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

10. **THIRD PARTY BENEFICIARIES.** Except for any party the Developer elects to assign taxes or assessments pursuant to Paragraph 3 (which party shall be a third party beneficiary to this Agreement), this Agreement is solely for the benefit of the parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

11. **ASSIGNMENT.** Neither party may assign this Agreement or any monies to become due hereunder without the prior written approval of the other party.

12. **CONTROLLING LAW; VENUE.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue shall be in Sarasota County, Florida.

13. **EFFECTIVE DATE.** The Agreement shall be effective after execution by both parties hereto and shall remain in effect unless terminated by either of the parties hereto.

14. **PUBLIC RECORDS.** Developer understands and agrees that all documents of any kind provided to the District or to District Staff in connection with the work contemplated under this Agreement are public records and are treated as such in accordance with Florida law.

IN WITNESS WHEREOF, the parties execute this Agreement to be effective the day and year first written above.

ATTEST:

Secretary/Assistant Secretary

WEST VILLAGES IMPROVEMENT DISTRICT

Chairman, Board of Supervisors

WITNESSES:

Print Name: Jennifer Thomas

Print Name: ALEXANDRA LONDO

WEST VILLAGES CONSTRUCTION, LLLP, a Florida limited liability limited partnership

By: **Thomas Ranch Villages GP, LLC**, a Delaware limited liability company

By: **Thomas Ranch Manager, LLC**, a Delaware limited liability company

Leslie Candes, Vice President

EXHIBIT 2

See attached

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

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

1. This sworn statement is submitted to West Villages Improvement District

by C.W. (Bill) Musselwhite Sr. Vice President
(print individual's name and title)

for Youngquist Brothers, Inc.
(print name of entity submitting sworn statement)

whose business address is: 15465 Pine Ridge Road, Fort Myers, Florida 33908

2. I understand that, subject to limited exemptions, section 287.135, Florida Statutes, declares a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of $1 million or more.

3. Based on information and belief, at the time the Contract is assigned to the West Village Improvement District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents, is listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

4. The entity will immediately notify the West Villages Improvement District in writing if either the entity, or any of its officers, directors, executives, partners, shareholders, members, or agents, is placed on either the Scrutinized Companies with Activities in Sudan, it Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

Signature by authorize representative

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of June, 2018, by Bill Musselwhite of Youngquist Brothers, Inc., who is personally known to me or who has produced _____as identification and who did (did not) take an oath.

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

Christine Fulbright
Notary Public, State of Florida

EXHIBIT 3

See attached

SWORN STATEMENT UNDER SECTION 287.133(3)(a), *FLORIDA STATUTES*, REGARDING PUBLIC ENTITY CRIMES

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

1. This sworn statement is submitted to West Villages Improvement District.

2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of SR. VICE PRESIDENT for Youngquist Brothers, Inc., ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.

3. Contractor's business address is 15465 Pine Ridge Road, Fort Myers, Florida 33908

4. Contractor's Federal Employer Identification Number (FEIN) is 59-1836961

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), *Florida Statutes*, means:

a. A predecessor or successor of a person convicted of a public entity crime; or,

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters

into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

8. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

10. Neither the entity submitting this sworn statement, nor any officers, directors, executives, partner's, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies)

_____ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this 21ST day of JUNE, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____

Its: SR. VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of JUNE, 2018, by Bill Musselwhite of Youngquist Brothers, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Christine Fulbright
Notary Public, State of Florida

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

EXHIBIT 4

See attached

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE STATEMENT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. The Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTIFICATION

1. I understand that Chapter 90.96 of the Laws of Florida (The Trench Safety Act) requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.

2. The estimated cost imposed by compliance with The Trench Safety Act will be:

* ∅ Dollars $ ∅

(Written) (Figures)

3. The amount listed above has been included within the Guaranteed Maximum Price.

Dated this 21ST day of JUNE, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____

Its: SR. VICE PRESIDENT

(*) NO TRENCH EXCAVATIONS EXCEED 5 FEET IN YOUNGQUIST BROTHERS SCOPE OF WORK

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 21st day of JUNE, 2018, by Brian Musselwhite, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Christine Fulbright
Notary Public, State of Florida

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn

WEST VILLAGES IMPROVEMENT DISTRICT
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT

INSTRUCTIONS
Because trench excavations on this Project are expected to be in excess of 5 feet, Chapter 90-96 of the Laws of Florida requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost[1]	Item Total Cost
* N/A			
		Project Total:	

Dated this 21st day of June, 2018.

"CONTRACTOR"

Youngquist Brothers, Inc., a Florida corporation

By: _____
Its: Sr. Vice President

X NO TRENCH EXCAVATIONS EXCEED 5 FEET IN YOUNGQUIST BROTHERS SCOPE OF WORK

STATE OF FLORIDA
COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 21st day of June, 2018, by Bill Musselwhite, of Youngquist Brothers, Inc., who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

CHRISTINE FULBRIGHT
Notary Public - State of Florida
Commission # GG 037228
My Comm. Expires Oct 10, 2020
Bonded through National Notary Assn.

Christine Fulbright
Notary Public, State of Florida

[1] Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

EXHIBIT B

IMPROVEMENTS TO BE ACQUIRED BY CITY

Class I deep injection well system, including two (2) single zone monitor wells and ancillary facilities