



AGENDA

SPECIAL COMMITTEE OF THE WHOLE WORKSHOP BOARD OF COUNTY COMMISSIONERS

Board Chambers
Suite 100
Ernie Lee Magaha Government Building - First Floor
221 Palafox Place

July 2, 2013
9:00 a.m.

Notice: This meeting is televised live on ECTV and recorded for rebroadcast on the same channel. Refer to your cable provider's channel lineup to find ECTV.

1. Call to Order

(PLEASE TURN YOUR CELL PHONE TO THE SILENCE OR OFF SETTING.)
2. Was the meeting properly advertised?
3. Discussion of Purchasing Procedures
(Claudia Simmons/Amy Lovoy/Kristin Hual - 2 hours)
 - A. Board Discussion
 - B. Board Direction
4. Adjourn

Special COW Workshop

3.

Meeting Date: 07/02/2013

Issue: Purchasing Procedures

From: Amy Lovoy, Department Head

Information

Recommendation:

Discussion of Purchasing Procedures

(Claudia Simmons/Amy Lovoy/Kristin Hual - 2 hours)

A. Board Discussion

B. Board Direction

Attachments

Purchasing Review - Discussion Items

Committee of the Whole Laws

Professional Services - FL Statute 287

COW April 9 - A/E Selection Process

Purchasing Internal Controls

Motor Vehicles State Term Contract

Forms Information and Changes

Forms Summary

Form A revised

Form B revised

Form C revised

Form D revised

Form I revised

Form F

Form G

Form H

Board of County Commissioners
PURCHASING REVIEW COW WORKSHOP
Tuesday, July 2, 2013

DISCUSSION ITEMS

WEBSITE LINK <http://myescambia.com/purchasing/laws-and-rules>

- 1. Overviews of Purchasing Ordinance - WEBSITE**
- 2. Overview of Purchasing Policies and Procedures -WEBSITE**
- 3. Solicitation processes --WEBSITE**
 - a. Request for Quotes**
 - b. Invitation to Bid - ITB**
 - c. Request for Proposals - RFP**
- 4. A/E Selection Process – 287.055**
- 5. Purchase from other contracts – “Piggyback” - WEBSITE**
- 6. Standard Contracts – revisions –**
- 7. Website OVERVIEW <http://myescambia.com/business>**
- 8. Internal Controls**
- 9. Questions**

COMMITTEE OF THE WHOLE

JULY 2, 2013
PURCHASING

PURCHASING LAWS & RULES

- ▣ FLORIDA STATUTES

<http://www.leg.state.fl.us/Welcome>

- ▣ COUNTY ORDINANCES AND POLICIES

www.myescambia.com/purchasing/laws-and-rules

- ▣ CODE OF CONDUCT RESOLUTION

SOLICITATIONS

- ▣ QUOTATION – INFORMAL, ORAL OR WRITTEN
- ▣ BID – FORMAL PRICE OFFERING IN RESPONSE TO AN INVITATION TO BID – MANDATORY BID THRESHOLD IS \$50K
- ▣ PROPOSAL- EXECUTED FORMAL DOCUMENT STATING THE GOODS/SERVICES TO BE OFFERED IN RESPONSE TO A REQUEST FOR PROPOSALS

SOLICITATIONS

- ▣ REQUEST FOR LETTERS OR INTEREST – RLI
- ▣ SOLICITATION OF RESPONSES FROM VENDORS WHEREBY THEY STATE THEIR QUALIFICATIONS AND INTEREST IN PERFORMING SERVICES FOR A SPECIFIC JOB OR PROJECT
- ▣ GOVERNED BY FS 287.055



Professional Services As Governed By Florida Statute 287.055

Escambia County BCC
Office of Purchasing



Architect & Engineering Services

- Federal – Brooks Act (Public Law 92-582)
 - Established qualification as opposed to price the method of selection
 - Became law in 1972
- State – Florida Statute 287.055, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties
 - Also known as the Competitive Consultants Negotiation Act (CCNA)
 - Further defined the method for selection by qualification
 - Became statute in 1981



Work Process

- Need Identified
- Notification
- Responses
- Review
- Shortlisting
- Presentations / Ranking
- Negotiations
- BCC Approval



Need Identified

- The Office of Purchasing requires from the Project Manager
 - Scope of Work
 - Estimate
 - Construction
 - Design
 - Funding Source
 - Selection Criteria
 - GSA Codes



Notification

- Notification is provided via Email
- The solicitation is available at <http://submittals.myescambia.com/>
- Additional information is available at <http://www.co.escambia.fl.us/departments/purchasing/ProfessionalServicesSolicitations.php>
 - Register of Submitters
 - Shortlisting
 - Ranking



Escambia County



ESCAMBIA COUNTY FLORIDA

Purchasing Department
Matt Langley Bell III Building
215 Palafox Place
Pensacola, FL 32507-1591

PUBLIC NOTICE

**TO THOSE FIRMS CONTRACTED WITH ESCAMBIA COUNTY UNDER
PD 02-03.79, Professional Services As Governed by Florida Statute 287.055**

The following solicitation(s) are available for examination at:
<http://submittals.mvescambia.com>

PD 08-09.027, New Interchange In the Vicinity of I10/Baulah Road Study

The following information is pertinent to this solicitation:

- Construction Estimate - N/A
- Selection Criteria - provided in solicitation
- GSA Codes - provided in solicitation

Previous Message Should Have Read

Responses are due on or before 11:59 p.m. CST, Thursday, February 5, 2009

The County has implemented a new Electronic Submittal Process which requires the use of GovernmentForms software®. This software, which generates and posts a customized version the Standard Form (SF) 330 along with the capability to upload other required items, can be downloaded at the above mentioned web address.

Paul R. Nobles, CPPO, CPPB, FCN, FCPM, FCCM
Purchasing Supervisor
Escambia County, Florida
Board of County Commissioners
Phone: 850.595.4918
Fax: 850.595.4805
Email: paul_nobles@co.escambia.fl.us



Response Formats

- GSA SF 330 Part II
- Letter of Interest
 - Statements beyond experience of firm and professionals
 - Special abilities to provide savings
 - Specifics regarding work in the area relative to the advertised project



Electronic Responses

- All submittals must be in electronic format established by Government Forms Software in order to be considered.
- Submittals are best uploaded through the software provided free of charge and not through the <http://submittals.myescambia.com/> web page.
- Submittals may be confirmed at <http://submittals.myescambia.com/>, at the bottom of the page enter your FEIN or SS #, your password and the "Check Status/Message(s)" button becomes active.



<http://submittals.myescambia.com/>

Purchasing

Electronic Submittal Process

Powered by
GovernmentForms.manager®

In an effort to increase administrative efficiency by eliminating errors and reducing paperwork, we have implemented an electronic submittal process that allows our consultants to electronically upload their SF330's (and other required items) via a popular and easy to use form generation tool called GovernmentForms.software®.

Currently Active Projects

[Closing Date]

+ Professional Services as Provided by Governed by Florida Statute 287.055 <PD 02-03.79>

Ongoing

+ Perdido Landfill - Landfill Engineering Services <PD 05-06.041>

Ongoing

+ General Information/Sample Forms

[Available documents]

+ Closed Projects

[Date Closed]

☒ Show GFS Installation Instructions

Consultants must first install the GFS program in order to electronically post their forms. Enter your firm's Federal Employer ID (FEIN) and your email address, then click the Install GFS button.

[Important information for firms with branch offices!](#)

FEIN (or SSN)

Email Address

Install GFS



Program Name
GovernmentForms.software®

Version
4.1.2008.6

System requirements
Windows
Any Version





<http://submittals.myescambia.com/>

Cont. . .

All primes AND consultants must submit THEIR OWN SF330 - Part II's!

[Click here for instructions on how to use GFS software program.](#)

Frequently Asked Questions

[How do I post my form\(s\) to this agency?](#)

[I don't see the Post button and can't post my form.](#)

[How do I know if my form was posted correctly?](#)

[How do you add an electronic signature or image to the form?](#)

[How do I generate an entirely new form?](#)

[How do I add more pages to the form?](#)

[I forgot my password!](#)

[What's the difference between Posting and Uploading?](#)

[How can I quickly decrease the font size in Item 9\(b\) and Item 10\(b\) of the SF330 Part II?](#)

[\(Vista Users\) When I click the Post button why doesn't anything happen?](#)

[Completed SF330 Part II <Sample>](#)

Select item to manually to post/upload:

Standard Form 330 Part II

XML formatted version of item:

Browse...

[Required format](#)

PDF formatted version of item:

Browse...

FEIN (or SSN)

Password

Post/Upload

Check Status/Message(s)



Review

- Each committee member is provided a spreadsheet with links to your electronic submittals.
 - Letter of Interest
 - SF 330 Part II
 - Snapshot of SF 330 Part II
- Each member has their own user id and password for uploading their spreadsheet
- The Office of Purchasing then tabulates those spreadsheets electronically for the committee members.



III. FIRMS' EVALUATIONS AND SELECTION

The County shall follow the procedures of the Consultants' Competitive Negotiation Act, Title XIX, Chapter 287, Section 055 of the Florida Statutes. The selection committee shall consider such factors as:

	Points
• Qualifications of the firm and individual team members.	10
• Firm shall be familiar with providing accessible sidewalks and street crossings in compliance with the <i>Americans with Disabilities Act (ADA) of 1991</i> and Florida Department of Transportation (FDOT) design standards.	10
• Ability to provide a high level of service through a local presence.	10
• Past record and performance.	10
• Recognition, understanding, capability and resources to perform the services specific to the project.	20
• Experience with applicable permitting processes.	20
• Recent and current workloads.	20



PD 07-08.118		Traffic Signal Design Olive Road (SR 290) and Cody Lane			
Committee Member 3		Form	Form	Form	Form
Member		Snapshot	Snapshot	Snapshot	Snapshot
		Engineering Firm 1	Engineering Firm 2	Engineering Firm 3	Engineering Firm 4
Selection Criteria	Points				
Qualifications of the firm and individual team members	10	10	8	10	10
Recognition, understanding, capability and resources to perform the services specific to the project	10	10	7	10	10
Ability to provide a high level of service through a local presence	20	20	0	20	18
Past record and performance	20	17	0	18	18
Experience with applicable permitting processes	20	18	15	18	18
Recent and Current workloads	20	5	20	18	18
Totals	100	80	50	94	92
Notes		Engineering Firm 1			
		Engineering Firm 2			
		Engineering Firm 3			
		Engineering Firm 4			
When complete, click here to post this worksheet					



	<u>Engineering Firm</u> <u>"A"</u>	<u>Engineering Firm</u> <u>"B"</u>	<u>Engineering Firm</u> <u>"C"</u>	<u>Engineering Firm</u> <u>"D"</u>	<u>Engineering Firm</u> <u>"E"</u>	<u>Engineering Firm</u> <u>"F"</u>	<u>Engineering Firm</u> <u>"G"</u>
Committee Member "A"	99	105	83	108	99	110	109
Committee Member "B"	88	100	50	70	83	90	100
Committee Member "C"	94	99	89	91	93	88	92
Committee Member "D"	94	92	98	99	102	97	96
Committee Member "E"	85	100	57	83	91	101	98
Grand Total	460	496	377	451	468	486	495



Shortlisting

- The Selection/Negotiation Committee meets in a publicly noticed meeting to review the tabulations.
- This is the first meeting for the committee members.
- The committee members are notified of the top scores and once a maximum number of presenters has been determined, the firm names are provided.



Presentations / Ranking

- Dates and times for presentations are established by the Office of Purchasing.
- Presentations and subsequent discussions with the committee members is the time for firms to make their case for why they are the most qualified.
- The committee meets as a group to rank immediately after the presentation / discussions.
- The committee members individually rank each of the firms.
- Those rankings are then tabulated to establish a final ranking.



Negotiations

- The number one ranked firm is notified of their ranking and asked to prepare a fee proposal based on the original scope of work and the estimates provided in the solicitation.
- The committee evaluates the fee proposal based on their knowledge and other available factors, such as:
 - Florida DMS Fee Curve (Architectural)
 - Past historic information
 - FEMA Fee Curve
 - Current Market Information



BCC Approval

- All contracts/task orders \$50,000 and greater require approval by the Board of County Commissioners
- An “Intent to Award” Letter is generally prepared at the time of the recommendation.
- We ask that the contract be signed prior to award by the Board



Changes

- The Office of Purchasing is including in each solicitation the following message:

All submitters or individuals acting on behalf of submitters are hereby prohibited from lobbying or otherwise attempting to persuade or influence any member of the Escambia County Board of County Commissioners or any member of the selection committee at any time during the course of the solicitation process. Failure to comply with this procedure will result in rejection/disqualification of said submittal without exception.

All submitters or individuals acting on behalf of submitters are further prohibited from contacting or otherwise attempting to communicate with any member of the relevant Selection Committee regarding the pending solicitation or its outcome until after the committee has arrived at a recommendation of the most qualified submitter. Until such recommendation is disclosed, any contact with the Selection Committee shall be channeled through the Office of Purchasing. Failure to comply with this procedure will result in rejection/disqualification of said submittal without exception.



Things To Remember

- Submittals must be uploaded into Government Forms Software for the system to work.
- The Office of Purchasing can't upload your forms for you, contact Enlightened Software, Inc. through the Government Forms Software (Help button)
- Contacting a committee member or a commissioner from the time a solicitation is publicly noticed until awarded could result in having your firm removed from consideration.
- The Office of Purchasing should be your contact for all correspondence on any solicitation.

A/E Selection Process

April 2009

A/E Selection Process

Implemented Process Improvements

- Trained pool of Committee members
- Committee makeup standard
- Standardized and weighted selection criteria
- Standardized scoring method
- Government Forms Software

A/E Selection Process

Feedback received on 3/17/09 and from NWFES

1. Modify process smaller \$ projects
2. Use limited term continuing contracts
3. Bundling of smaller projects
4. Presentation requirements
5. Selection Criteria
6. County Definitions
7. Preferences in selection process
8. Scoring Method
9. Selection Committee
10. Distribution of Work

A/E Selection Process

Proposed changes to be effective June 1, 2009

1. Modified process for projects/contracts under \$25K
2. Projects with construction cost <\$1M will be based on technical submittal and Q/A
3. Adopt the scoring method used by FDOT
4. Use Internal Staff to train pool members in specialized areas
5. Endorse an annual review and report by NWFES

A/E Selection Process

Proposed changes effective 10/1/09

1. Develop and use measurements for selection criteria to ensure effectiveness
2. Determine the best use for limited term continuing contracts for A/E services and implement
3. Identify an improved process for bundling small projects and implement

A/E Selection Process

Future Considerations

- Establishment of a policy for preferences for certain selection criteria as determined and defined by the Board

PURCHASING

INTERNAL CONTROLS

INTERNAL CONTROLS

- REQUISITIONS AND PURCHASE ORDERS ARE GENERATED USING THE PURCHASING MODULE OF THE FINANCE SYSTEM MAINTAINED AND OPERATED BY THE CLERK'S FINANCE OFFICE PENTAMATION-e-FINANCE PLUS



- Pam Childers
CLERK OF THE CIRCUIT COURT & COMPTROLLER
ESCAMBIA COUNTY, FLORIDA



*Escambia County Comptroller's Finance
Home Page*



Live - BCC Pentamation eFinance Plus+
[Comptroller's Financial Report Server](#)
[Comptroller's Financial Report Builder](#)
[Requisition Approvals Detail Monitor](#)
[BCC Employee Access Center](#)
[BCC Employee TimeSheets](#)
Training - BCC Pentamation eFinance Plus+
Test - BCC Pentamation eFinance Plus+
[Finance Scanned Images](#)
[Report Technical Problems](#)

FINANCE SYSTEM CONTROLS

MASTERFILE

- ▣ MAINTAINED AND UPDATED BY CLERK'S OFFICE
- ▣ VENDOR DATA INCLUDING REMIT ADDRESSES
- ▣ ACCOUNTING DATA – BUDGET DOLLARS BY COST CENTER ACCOUNT TYPES-FUND TYPES
- ▣ AUTHORIZED USERS AND APPROVAL LEVELS BY AUTHORIZATION BASED ON DELEGATION OF AUTHORITY

PURCHASING MODULE CONTROLS

- ▣ REQUISITIONS – CREATED AND APPROVED BY DEPARTMENT USERS AS SET UP IN THE SYSTEM
- ▣ PURCHASE ORDERS GENERATED FROM APPROVED REQUISITIONS BY AUTHORIZED BUYERS AND WITHIN BUDGET ED FUNDS AVAILABLE
- ▣ PURCHASE ORDERS APPROVED AT AUTHORIZED LEVELS BASED ON DELEGATION OF APPROVAL AUTHORITY
- ▣ ONE ORIGINAL PURCHASE ORDER FROM ONE PRINTER LOCATION ON PREPRINTED PAPER

ELECTRONIC FILING

- ▣ SIGNED PURCHASE ORDERS ARE
SCANNED
- ▣ USED BY CLERK'S ACCOUNTS PAYABLE
- ▣ USER DEPARTMENTS
- ▣ PURCHASING FILES

[MyFloridaHome](#) [Contact DMS](#) [Site Map](#) [Notification Settings](#) [Notify Me](#)

[Department of Management Services](#) > [Business Operations](#) > [State Purchasing](#) > [Vendor Information](#) > [State Contracts, Agreements and Price Lists](#) > [State Term Contracts](#) > [Motor Vehicles](#)

<< [Return](#)

Motor Vehicles 071-000-13-1

Effective Period 11/01/2012 through 10/31/2013

Contract Type State Term Contract

Contract Information

- [Pricing](#)

Contract Documents

[Microsoft Word](#) - (vnd.openxmlformats-officedocument.wordprocessingml.document 100.52 kB)

[PDF](#) - (pdf 573.76 kB)

[Forms and Other Information](#)

Contract Administration

- [Charles Day](#)
- 850-410-2426
- Charles.Day@dms.myflorida.com

Commodity Codes

071-111, 071-112, 071-131, 071-132, 071-141, 071-200, 071-310, 071-330, 071-401, 071-402, 071-511, 071-512, 071-521, 071-522, 071-531, 071-532, 071-541, 071-542, 071-561, 071-562, 071-800

Description

This state term contract is for the purchase of new automobiles, passenger vans, cargo vans, sport utility vehicles, light pickup and chassis-cab trucks, and low-speed vehicles with or without installed options including various truck bodies and accessories. The contract includes police/special service vehicles and motorcycles (marked and unmarked).

Benefits

- State of Florida Base Vehicle Prices and Options Discounts equate to average approximate discount of 20 percent off of list price (MSRP).
- Additional discounts possible for large quantity, identical motor vehicle, orders.
- Lead-Time: Approximate 30 - 190 Days (Based on State of Florida Base Vehicle and Options).
- Delivery included in State of Florida Base Vehicle Price.
- Statewide Awards.
- Wide product selection with approximately 800 State of Florida Base Vehicles on contract, each with associated Manufacturer's Options, and select Aftermarket Options.

- Manufacturer's standard most-inclusive government Warranty.
- Styles Include: Law Enforcement Automobiles, Law Enforcement SUVs, Law Enforcement Motorcycles, Automobiles, Low-Speed Vehicles, Passenger Vans, Cargo Vans, SUVs, and Pickup and Chassis-Cab Trucks (Class 1 through Class 5).
- Brands Include: Chevrolet, Cruise Car, Dodge, Ford, Freightliner, GEM, GMC, Honda, International, Jeep, Nissan, and Toyota.

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Management Services - State of Florida

BOARD OF COUNTY COMMISSIONERS

ESCAMBIA COUNTY FLORIDA
213 PALAFOX PLACE SECOND FLOOR SUITE 11.101
PO BOX 1591
PENSACOLA, FL 32591-1591
(850) 595-4980

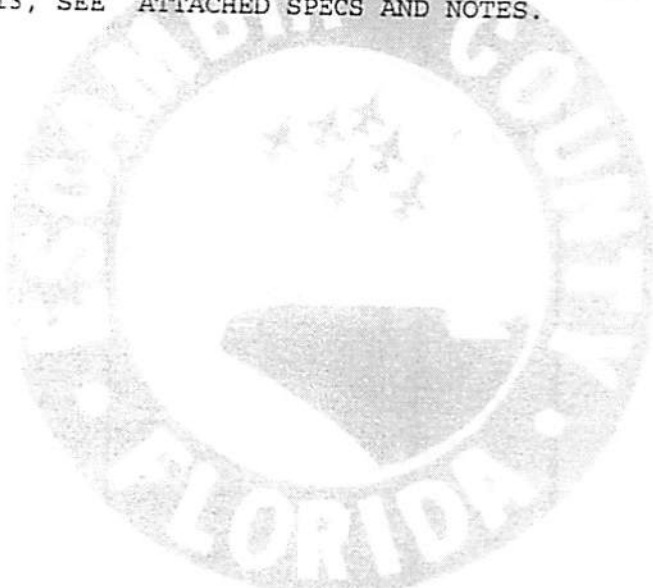
PURCHASE ORDER NO. 131087

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PLEASE EMAIL INVOICES TO:
escambia.invoices@escambiaclerk.com
CLERK OF THE COURT & COMPTROLLER
HON. PAM CHILDERS
221 PALAFOX PLACE, SUITE 140
PENSACOLA, FL 32502-5843

V
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082128
HUB CITY FORD-MERCURY INC
DBA HUB CITY FORD INC
4060 SOUTH FERDON BLVD
CRESTVIEW FL 32536

S
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P
PARKS & RECREATION DEPARTMENT
1651 EAST NINE MILE ROAD
PENSACOLA FL 32514

T
O
ATTN: TAMMARA R. JOHNSON

ORDER DATE: 05/16/13		BUYER: JOSEPH PILLITARY		REQ. NO.: 13001191	REQ. DATE: 05/14/13
TERMS: NET 30 DAYS		F.O.B.: PREPAY & ADD		DESC.:	
ITEM#	QUANTITY	UOM	DESCRIPTION	UNIT PRICE	EXTENSION
01	1.00	LOT	CONTRACT 071-000-13-1, BCC AWARD 3.21.13, SEE ATTACHED SPECS AND NOTES.	16781.4000	16,781.40
					
ITEM#	ACCOUNT		AMOUNT	PROJECT CODE	PAGE TOTAL \$
01	350229	56401	16,781.40	08PR0068	16,781.40
					TOTAL \$
					16,781.40

APPROVED BY

Original Purchase Order



Fleet Department
indrow1@windrowfleetsales.com



Phone: (800) 972-3673
Office: (850) 398-6810
Cell: (850) 393-4723
Fax: (850) 398-6827

Date:
5/2/2013

TERRY GRAY
 ESCAMBIA COUNTY
 850-937-2123
 850-937-2129
TWGRAY@MYESCAMBIA.COM

STATE TERM
CONTRACT # 071-000-13-1

[illegible]

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4060 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-398-6810



Selected Options

2013 Ford F-150

4x2 Regular Cab Styleside 6.5' box 126" WB XL (F1C)

Vehicle Snapshot

Engine: 5.0L V8 FFV
Transmission: Electronic 6-Speed Automatic
Rear Axle Ratio: Limited Slip w/3.55
GVWR: 6,650 lbs Payload Package

Code	Description	Class	MSRP
F1C	Base Vehicle Price (F1C)	STD	23,955.00
Packages			
100A	Equipment Group 100A Base (991A) Engine: 3.7L V6 FFV • Fuel economy for ethanol (E85): 12mpg city, 17mpg highway.; (446) Transmission: Electronic 6-Speed Automatic. Includes tow/haul mode.; (X19) 3.55 Axle Ratio; (STDGV) GVWR: 6,450 lbs Payload Package; (T7B) Tires: P235/75R17 BSW A/T (5); (64C) Wheels: 17" Gray Styled Steel; (A) Vinyl 40/20/40 Front Seat; (STDRO) Radio: AM/FM Stereo/Clock	OPT	N/C
Powertrain			
99F	Engine: 5.0L V8 FFV (X27) 3.31 Axle Ratio; (NONGV) GVWR: 6,650 lbs Payload Package. Fuel economy for ethanol (E85): 11mpg city, 15mpg highway. Torque: 380 ft.lbs. @ 4250 rpm.	OPT	1,000.00
446	Transmission: Electronic 6-Speed Automatic Includes tow/haul mode.	INC	Included
XH9	Limited Slip w/3.55 Axle Ratio	OPT	350.00
	GVWR: 6,650 lbs Payload Package	INC	Included
Wheels & Tires			
T7B	Tires: P235/75R17 BSW A/T (5)	INC	Included
64C	Wheels: 17" Gray Styled Steel	INC	Included
Seats & Seat Trim			
A	Vinyl 40/20/40 Front Seat	INC	Included

Prices and content availability as shown, are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability of pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information. Reference: CTO5200032 4/12/2013

Printed on May 01, 2013 at 20:24

Price Level: 340

QuoteID: <None>

Page 1

Selected Options Continued

Prepared By: Administrator
Dealership: HUB CITY FORD

Code	Description	Class	MSRP
Other Options			
126WB	126" Wheelbase	STD	N/C
STDRD	Radio: AM/FM Stereo/Clock	INC	included
535	Trailer Tow Package <i>Auxiliary Transmission Oil Cooler; SelectShift Automatic Transmission; Upgraded Radiator. Required for towing over 5,000 lbs. Includes 7-pin wiring harness and class IV trailer hitch receiver.</i>	OPT	375.00
67T	Trailer Brake Controller	OPT	230.00
PAINT	Monotone Paint Application	STD	N/C
153	Front License Plate Bracket <i>Standard in states requiring 2 license plates, optional to all others.</i>	OPT	N/C
96W	Spray-In Bed Liner (Pre-Installed) <i>Custom Accessory.</i>	OPT	475.00
Interior Colors For : Primary w/XL (regs)			
AS	Steel Gray	OPT	N/C
Primary Colors For : Primary w/XL (regs)			
YZ	Oxford White	OPT	N/C

Vehicle Subtotal	\$26,385.00
Destination	\$995.00
Vehicle Subtotal (including Destination)	\$27,380.00

Prices and vehicle availability as shown, are subject to change and should be treated as estimates only. Actual costs, vehicle, package and equipment may vary from this estimate because of regional pricing, availability or pricing adjustments not reflected in the dealer's computer system. See advertisement for the most current information. Reference: CT0209032 4/1/2013

Printed on May 01, 2013 at 20:24

Price Level: 340

QuoteID: <None>

Page 2

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4060 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-398-6810



Dimensions & Capacities

2013 Ford F-150

4x2 Regular Cab Styleside 6.5' box 126" WB XL (F1C)
Value

Description

Dimensions and Capacities

Output	360 hp @ 5,600 rpm
Torque	380 lb.-ft. @ 4,250 rpm
1st gear ratio	4.170
2nd gear ratio	2.340
3rd gear ratio	1.520
4th gear ratio	1.140
5th gear ratio	0.860
6th gear ratio	0.690
Reverse gear ratio	3.400
City/hwy	15 mpg/21 mpg
Curb weight	4,881 lbs.
GVWR	6,650 lbs.
Front	3,300 lbs.
Rear GAWR	3,500 lbs.
Payload	1,810 lbs.
Front curb weight	2,794 lbs.
Rear curb weight	2,117 lbs.
Front axle capacity	3,750 lbs.
Rear axle capacity	3,800 lbs.
Front spring rating	3,300 lbs.
Rear spring rating	3,500 lbs.
Front tire/wheel capacity	4,050 lbs.
Rear tire/wheel capacity	4,050 lbs.
Towing capacity	8,300 lbs.
5th-wheel towing capacity	8,300 lbs.
Front legroom	41.4"
Front headroom	41.0"
Front hiproom	60.5"
Front shoulder room	55.9"
Passenger area volume	64.8 cu.ft.
Length	213.2"
Body width	79.2"
Body height	74.6"
Wheelbase	128.0"
Front tread	67.0"

Prices and options availability are shown, or subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate. Dealership of special offer pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information. Reference: C70523032 4/1/2013

Printed on May 01, 2013 at 20:24

Price Level: 340

Quoted: <None>

Page 3

Dimensions & Capacities Continued

Prepared By:
Dealership:

Administrator
HUB CITY FORD

Description

Value

Dimensions and Capacities

Rear tread	67.0 "
Turning radius	20.8 '
Fuel tank	26.0 gal.
Exterior cargo length	78.0 "
Exterior cargo minimum width	50.0 "
Exterior cargo volume	65.5 cu.ft.
Exterior cargo pickup box depth	22.4 "
Exterior cargo maximum width	65.2 "
Exterior cargo maximum width	Interior maximum cargo volume

Prices and capacity availability as shown, are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.
Reference: CTO5200002 4/1/2013

Printed on May 01, 2013 at 20:24

Price Level: 340

QuoteID: <None>

Page 4

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4030 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-398-6810



Warranty

2013 Ford F-150

4x2 Regular Cab Styleside 6.5' box 126" WB XL (F1C)

Description	Months/Distance
Basic	36 month/36,000 miles
Powertrain	60 month/60,000 miles
Corrosion Perforation	60 month/unlimited mileage
Roadside Assistance	50 month/60,000 miles

Prices and terms shown, as shown, are subject to change and may be used as estimates only. Actual base vehicle, package and option prices may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.
Reference: CTE010000 4/1/2013

Printed on May 01, 2013 at 20:24

Price Level: 340

QuoteID: <None>

Page 5

BOARD OF COUNTY COMMISSIONERS

ESCAMBIA COUNTY FLORIDA
213 PALAFOX PLACE SECOND FLOOR SUITE 11.101
PO BOX 1591
PENSACOLA, FL 32591-1591
(850) 595-4980

PURCHASE ORDER NO. 131071

I
N
V
O
I
C
E
PLEASE EMAIL INVOICES TO:
escambia.invoices@escambiaclerk.com
CLERK OF THE COURT & COMPTROLLER
HON. PAM CHILDERS
221 PALAFOX PLACE, SUITE 140
PENSACOLA, FL 32502-5843

V
E
N
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R
082128
HUB CITY FORD-MERCURY INC
DBA HUB CITY FORD INC
4060 SOUTH FERDON BLVD
CRESTVIEW FL 32536

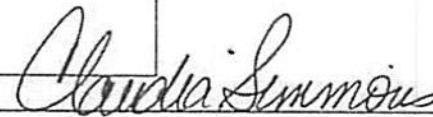
S
H
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P
PARKS & RECREATION DEPARTMENT
1651 EAST NINE MILE ROAD
PENSACOLA FL 32514

T
O
ATTN: TAMMARA R. JOHNSON 475.5220

ORDER DATE: 05/14/13			BUYER: JOSEPH PILLITARY			REQ. NO.: 13001169		REQ. DATE: 05/10/13	
TERMS: NET 30 DAYS			F.O.B.: PREPAY & ADD			DESC.:			
ITEM#	QUANTITY	UOM	DESCRIPTION				UNIT PRICE		EXTENSION
01	1.00	LOT	CONTRACT 071-000-13-1 SEE ATTACHED SPECS				25065.2000		25,065.20

ITEM#	ACCOUNT	AMOUNT	PROJECT CODE	PAGE TOTAL \$	25,065.20
01	350229 56401	25,065.20	08PR0068	TOTAL \$	25,065.20

APPROVED BY



AI- Recommendation Concerning the Purchase of Four 2013 Ford F-750 XL Trucks for the Road
3992 Department - Amy Lovoy, Management and Budget Services Department Director

5. That the Board authorize the County to piggyback off of the State of Florida Term Contract #01-070-700-S, in accordance with the Escambia County, Florida, Code of Ordinances, Chapter 46, Article II, Section 46-44, Applications; exemptions; and Section 46-64, Board approval, and award a Purchase Order for four 2013 Ford F-750 XL trucks, to Hub City Ford, in the amount of \$280,320, per the provided quotation.

[Funding: Fund 175, Transportation Trust Fund, Cost Center 210402, Object Code 56401]

Fleet Department
indrow1@windrowfleetsales.com



Phone: (800) 972-3673
Office: (850) 398-6810
Cell: (850) 393-4723
Fax: (850) 398-6827

Date:
5/2/2013

TERRY GRAY
 ESCAMBIA COUNTY
 850-937-2123
 850-937-2129
TWGRAY@MYESCAMBIA.COM

STATE TERM
CONTRACT # 071-000-13.1

Exterior Vehicle Color		Emergency Lighting		Driver side	Passenger side
Interior Vehicle Color		Color	Light		
Seat Type		Color	Lenses		

[illegible]

Joe Windrow
Fleet Sales Manager
850-398-6810 Office
850-398-4723 Cell
850-398-6827 FAX

All vehicles will be ordered **WHITE** unless agency chooses a different color.
Please return quote along with purchase order.

We Appreciate your interest in the 2012/2013 State of Florida Motor Vehicle Contract

4060 South Ferdon Blvd., Crestview, FL 32536

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4060 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-388-6810



Selected Options

2013 Ford F-150

4x4 SuperCrew Cab Styleside 5.5' box 145" WB XL (W1E)

Vehicle Snapshot

Engine: 5.0L V8 FFV
Transmission: Electronic 6-Speed Automatic
Rear Axle Ratio: Limited Slip w/3.55
GVWR: 7,350 lbs Payload Package

Code	Description	Class	MSRP
W1E	Base Vehicle Price (W1E)	STD	35,620.00
Packages			
100A	Equipment Group 100A Base (99F) Engine: 5.0L V8 FFV : Fuel economy for ethanol (E85): 10mpg city, 14mpg highway.; (446) Transmission: Electronic 6-Speed Automatic : Includes tow/haul mode.; (X19) 3.55 Axle Ratio; (STDGV) GVWR: 7,350 lbs Payload Package; (T7H) Tires: P265/70R17 OWL A/T (4) : Includes OWL A/T spare tire.; (64C) Wheels: 17" Gray Styled Steel; (A) Vinyl 40/20/40 Front Seat; (STDOR) Radio: AM/FM Stereo/Clock	OPT	N/C
Powertrain			
99F	Engine: 5.0L V8 FFV Fuel economy for ethanol (E85): 10mpg city, 14mpg highway. Torque: 380 ft.lbs. @ 4250 rpm	INC	Included
446	Transmission: Electronic 6-Speed Automatic Includes tow/haul mode.	INC	Included
XH9	Limited Slip w/3.55 Axle Ratio	OPT	350.00
STDGV	GVWR: 7,350 lbs Payload Package	INC	Included
Wheels & Tires			
T7E	Tires: LT245/75R17E BSW A/T (5) (Fleet)	OPT	300.00
64C	Wheels: 17" Gray Styled Steel	INC	Included
Seats & Seat Trim			
A	Vinyl 40/20/40 Front Seat	INC	Included
Other Options			

Prices and contents availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special pricing, availability or pricing adjustments not reflected in this dealer's computer system. See salesperson for the most current information.
Reference: CTO52C822-01/2013

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Price Level: 340

QuoteID: <None>

Page 1

Selected Options Continued

Prepared By:
Dealership:

Administrator:
HUB CITY FORD

Codo	Description	Class	MSRP
145WB	145" Wheelbase	STD	N/C
STDRD	Radio: AM/FM Stereo/Clock	INC	Included
535	Trailer Tow Package <i>Auxiliary Transmission Oil Cooler, SelectShift Automatic Transmission, Upgraded Radiator. Required for towing over 5,000 lbs. Includes 7-pin wiring harness and class IV trailer hitch receiver.</i>	OPT	375.00
413	Skid Plates (Fleet)	OPT	160.00
67T	Trailer Brake Controller	OPT	230.00
PAINT	Monotone Paint Application	STD	N/C
18A	Black Platform Running Boards	OPT	250.00
153	Front License Plate Bracket <i>Standard in states requiring 2 license plates, optional to all others.</i>	OPT	N/C
96W	Spray-In Bod Liner (Pre-Installed) <i>Custom Accessory.</i>	OPT	475.00
Interior Colors For : Primary w/XL (supers)			
AS	Steel Gray	OPT	N/C
Primary Colors For : Primary w/XL (supers)			
YZ	Oxford White	OPT	N/C
Vehicle Subtotal			\$37,760.00
Destination			\$995.00
Vehicle Subtotal (including Destination)			\$38,755.00

Prices and options availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability of pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information. Reference C:\CS20\932-411\2013

Printed on May 01, 2013 at 19:48

Price Level: 340

QuoteID: <None>

Page 2

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4060 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-398-6810



Dimensions & Capacities

2013 Ford F-150

4x4 SuperCrew Cab Styleside 5.5' box 145" WB XL (W1E)
Value

Description

Dimensions and Capacities

Output	360 hp @ 5,500 rpm
Torque	380 lb.-ft. @ 4,250 rpm
1st gear ratio	4.170
2nd gear ratio	2.340
3rd gear ratio	1.520
4th gear ratio	1.140
5th gear ratio	0.860
6th gear ratio	0.690
Reverse gear ratio	3.400
City/hwy	14 mpg/19 mpg
Curb weight	5,787 lbs.
GVWR	7,350 lbs.
Front	3,900 lbs.
Rear GAWR	3,850 lbs.
Payload	1,700 lbs.
Front curb weight	3,252 lbs.
Rear curb weight	2,515 lbs.
Front axle capacity	4,050 lbs.
Rear axle capacity	4,100 lbs.
Front spring rating	3,900 lbs.
Rear spring rating	3,850 lbs.
Front tire/wheel capacity	4,050 lbs.
Rear tire/wheel capacity	4,050 lbs.
Towing capacity	7,700 lbs.
St-h-wheel towing capacity	7,700 lbs.
Front legroom	41.4 "
Rear legroom	43.5 "
Front headroom	41.0 "
Rear headroom	40.3 "
Front hiproom	60.5 "
Rear hiproom	64.6 "
Front shoulder room	65.9 "
Rear shoulder room	65.5 "
Passenger area volume	130.9 cu.ft.
Length	231.8 "

Prices and content availability is shown, and subject to change and errors are treated as estimates only. Actual base vehicle, package and option pricing may vary from the estimate because of special local pricing, availability or pricing department not reflected in the dealer's computer system. See salesperson for the most current information. Reference: 2761209322 4/1/2013

Dimensions & Capacities Continued

Prepared By:
Dealership:

Administrator
HUB CITY FORD

Description	Value
Dimensions and Capacities	
Body width	79.2 "
Body height	75.9 "
Wheelbase	145.0 "
Front tread	87.0 "
Rear tread	87.0 "
Turning radius	23.5 '
Fuel tank	36.0 gal.
Exterior cargo length	68.0 "
Exterior cargo minimum width	50.0 "
Exterior cargo volume	55.4 cu.ft.
Exterior cargo pickup box depth	22.4 "
Exterior cargo maximum width	65.2 "
Exterior cargo maximum width	interior cargo volume seats folded
57.6 cu ft.	interior maximum cargo volume

Prices and colors shown, if as shown, are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of seasonal local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.
Reference: CTR57CSC02 4/1/2013

Printed on May 01, 2013 at 19:48

Price Level: 340

QuoteID: <None>

Page 4

Prepared For:

Prepared By:

Administrator
HUB CITY FORD
4080 SOUTH FERDON BLVD

CRESTVIEW, Florida, 32536
Phone: 850-398-8810



Warranty

2013 Ford F-150

4x4 SuperCrew Cab Styleside 5.5' box 145" WB XL (W1E)

Description	Months/Distance
Basic	36 month/36,000 miles
Powertrain	60 month/60,000 miles
Corrosion Perforation	60 month/unlimited mileage
Roadside Assistance	60 month/60,000 miles

Prices and coverage shown are shown, with dealer to charge and dealer to include as estimate only. Actual dealer price, package and option pricing may vary from this estimate because of special financing availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information. Reference CT66730332 4/1/2013

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Price Level: 340

QuoteID: <None>

Page 5

Construction Contracts-- Forms A-D, I:

Form A: Architect/Engineer Designed
Form B: Contractor
Form C: Design-Build Firm
Form D: Road/Drainage Projects
Form I: Bridges/Docks/Boat ramps

Consulting Services Contracts-- Forms F- H:

Form F: Project with Task Orders
Form G: Stand Alone Project
Form H: Study with Fee Schedule

Summary of Revisions:

1) The CONSTRUCTION CONTRACT provision relating to **PROGRESS PAYMENTS** was revised to incorporate billing dispute resolution procedures mandated by recent amendments to the Local Government Prompt Payment Act.

PROGRESS PAYMENTS.

A. Contractor shall submit ____ (___) original copies of each of its Applications for Payment to the Architect/Engineer on or before the 25th day of each month for work performed during the previous month. Invoices received after the 25th day of each month shall be considered for payment as part of the next month's application. Within ten (10) calendar days after receipt of each Application for Payment, the Architect/Engineer shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial ~~and return~~ of the Application for Payment by the Architect/Engineer, the Contractor may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused by the Architect/Engineer, in whole or in part, the Contractor may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Contractor.

If the administrative decision is disputed, the Contractor may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Contractor will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision to the property owner within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within ~~thirty (30) calendar~~ twenty (20) business days after County approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved.

2) The CONSULTING SERVICES CONTRACT provision relating to **INSURANCE** was amended to include the following additional requirements related to professional liability coverage:

Professional Liability coverage with \$1,000,000 minimum limit, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of

the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

- 3) The **INDEMNIFICATION** provision was revised as follows:

CONSTRUCTION CONTRACTS- Forms A-D, I

INDEMNIFICATION

Contractor shall pay on behalf of or indemnify and hold harmless County and its agents, officers and employees from and against all liabilities, damages, losses, and costs, including attorney's and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor or resulting from the use by Contractor, or by anyone for whom Contractor is legally liable, of any materials, tools, machinery or other property of County. Contractor's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor, and Contractor shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Contractor agree one percent (1%) of the Contract Amount paid by County to Contractor shall be given as separate consideration for this indemnification, and any other indemnification of County by Contractor provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Contractor by Contractor's acceptance and execution of the Agreement.

Contractor agrees that such indemnification by Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. Contractor's obligation to indemnify shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

Duty To Provide Legal Defense. Contractor shall pay for and provide a legal defense for the County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by the County, for all liabilities, damages, losses, and costs as described above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

CONSULTING SERVICES CONTRACTS- Forms F- H:

INDEMNIFICATION

The Consultant agrees to hold harmless and indemnify the County and its agents, officers, and employees from all liabilities, damages, losses, and costs, including attorneys' fees and paralegals' fees, incurred by County to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Consultant, or by any other person for whom the Consultant is legally liable. Consultant's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm or corporation to whom any portion of the Work is subcontracted by Consultant, and Consultant shall not be required to indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's and paralegal fees.

County and Consultant agree one percent (1%) of the Contract Amount paid by County to Consultant shall be given as separate consideration for this indemnification, and any other indemnification of County by Consultant provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Consultant by Consultant's acceptance and execution of the Agreement.

Consultant agrees that such indemnification by the Consultant relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any statutes of limitations thereafter. The Consultant's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

- 4) The following **E-VERIFY** provision was added to all contracts in accordance with Executive Order 11-116:

EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Revised Standard Agreements

Construction Contracts – Forms A-D, I



FORM A: ARCHITECT/ENGINEER DESIGNED

FORM B: CONTRACTOR

FORM C: DESIGN-BUILD FIRM

FORM D: ROAD / DRAINAGE PROJECTS

FORM I: BRIDGE / DOCKS / BOAT RAMPS

SUMMARY OF REVISIONS

Construction Contracts – Forms A-D, I

- **PROGRESS PAYMENTS** provision revised to incorporate billing dispute resolution procedures mandated by amendments to the Local Government Prompt Payment Act
- **INDEMNIFICATION** provision revised
- **E-VERIFY** (Employment Eligibility Verification Program) provision added

Revised Standard Agreements

Consulting Services Contracts – Forms F-H



FORM F: PROJECT WITH TASK ORDERS
FORM G: STAND ALONG PROJECT
FORM H: STUDY WITH FEE SCHEDULE

SUMMARY OF REVISIONS

Consulting Services Contracts – Forms F-H

- **INDEMNIFICATION** provision revised
- **INSURANCE** provision amended to include additional requirements related to professional liability coverage
- **E-VERIFY** (Employment Eligibility Verification Program) provision added

**STANDARD CONSTRUCTION CONTRACT
DOCUMENTS**

FOR

**AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF
ESCAMBIA COUNTY, FLORIDA
AND**

FORM A: Construction- A/E Designed

(Revised 2013)

STANDARD CONSTRUCTION CONTRACT DOCUMENTS
FORM A

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Exhibit I/Technical Specifications [Description/Date]	
Exhibit J/Supplemental Terms and Conditions	
Exhibit K/Federal Documents (if applicable)	
Exhibit L/Solicitation Documents Index	

AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA
AND _____ FOR
ARCHITECT/ENGINEER DESIGNED CONSTRUCTION
CONTRACT DOCUMENTS.

THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, ("County"), hereby contracts with _____ ("Contractor"), a _____ corporation for profit, to perform all work ("Work") in connection with _____ ("Project"), as detailed in the attached Plans and Specifications and other Contract Documents hereafter specified.

SECTION 1. CONTRACT DOCUMENTS.

- A. The Contract Documents include this Agreement, including Amendments and Exhibits, the Exhibits described in Section 6, Change Orders, Work Directive Changes, Field Orders and the solicitation documents, including addenda. These Contract Documents are incorporated by reference and made a part of this Agreement. A copy of all Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.
- B. In case of any inconsistency or conflict among the provisions of the agreement and any other terms and conditions of any documents comprising the Contract Documents, the provisions of the Agreement shall control. Concerning the Contract Documents, the order of precedence shall be as follows: 1) the Agreement, including Amendments and Exhibits; 2) Change Orders; 3) Work Directive Changes; 4) Field Orders; 5) the Solicitation Documents, including addenda. The Contract Documents listed above represent the entire and integrated agreement between the parties hereto, and supersede prior negotiations, representations, or agreements, either written or oral.
- C. County shall furnish to the Contractor up to four (4) sets of the Contract Documents for execution of the Work. Additional copies of the Contract Documents are available at the cost of reproduction.

SECTION 2. SCOPE OF WORK.

Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good workmanlike manner the Work required by the Contract Documents.

SECTION 3. CONTRACT AMOUNT.

In consideration of the faithful performance by Contractor of the covenants in this Agreement to the full satisfaction and acceptance of County, County agrees to pay, or cause to be paid, to Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement:

[Describe Contract Amount]

SECTION 4. BONDS.

- A.** Contractor shall provide at his expense Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of 100% of the Contract Amount. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to County; provided; however, the surety shall be rated as "A-" (excellent) or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.
- B.** If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Document, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval. Failure by Contractor to maintain its bonds in full force and effect at all times, including the warranty period, shall be grounds for termination of this Contract.
- C.** Per §255.05, Florida Statutes, the Contractor shall be required to execute and record the Performance and Payment bonds. The bonds must state the name and principal business address of both the Principal and the Surety and a description of the project sufficient to identify it. (The filing costs are \$10.00 for the first page and \$8.50 for each remaining page).

SECTION 5. CONTRACT TIME AND LIQUIDATED DAMAGES.

- A.** Time is of the essence in the performance of the Work under this Agreement. Contractor shall commence the Work within ten (10) calendar days from the Commencement Date, established in the Notice to Proceed. No Work shall be performed at the Project site prior to the Commencement Date. Contractor shall provide 48 hours notice prior to beginning the Work. The Work shall be substantially completed within _____ () calendar days from the Commencement Date. The Work shall be fully completed and deemed ready by the County for final completion within _____ () calendar days from the Substantial Completion Date. The Contract Time shall be the time period from the Commencement Date to the date of final completion totaling _____ () calendar days (herein "Contract Time").
- B.** County and Contractor recognize that, since time is of the essence for this Agreement, the County will suffer financial loss if the Work is not substantially completed within the time specified. Should Contractor fail to substantially complete the Work within the time period noted above, County shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed by the County on the date that the County's Architect certifies in writing that the construction of the project, or specified part thereof, is sufficiently completed in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended. Along with such certification, the County's Architect shall compile a "punch list" of any remaining exceptions that do not adversely affect the use of the Project. Completion of these items will be required prior to final payment.

- C. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the County's actual damages at the time of contracting if Contractor fails to substantially complete the Work in accordance with the progress schedule.
- D. When any period of time is referenced to by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

SECTION 6. EXHIBITS INCORPORATED.

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

- Exhibit A: General Terms and Conditions
Exhibit B: Form of Performance and Payment Bonds
Exhibit C: Insurance Requirements
Exhibit D: Form of Release and Affidavit
Exhibit E: Form of Contractor Application for Payment
Exhibit F: Form of Change Order
Exhibit G: Owner Direct Purchases- FORM OF0205 (if applicable)
Exhibit H: Working Drawings / Plans prepared by Architect/Engineer and Identified as Follows: **[Description/Sheet No./Date]**
Exhibit I: Technical Specifications **[Description/Date]**
Exhibit J: Supplemental Terms and Conditions
Exhibit K: Federal Documents (if applicable)
Exhibit L: Solicitation Documents Index

SECTION 7. NOTICES.

A. All notices required or made pursuant to this Agreement by the Contractor to the County shall be in writing and delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Attn: _____

B. All notices required or made pursuant to this Agreement by County to Contractor shall be made in writing and shall be delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Attn: _____

C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

SECTION 8. MODIFICATION.

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

SECTION 9. SUCCESSORS AND ASSIGNS.

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

SECTION 10. GOVERNING LAW.

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida and the parties agree that venue shall be in Escambia County, Florida for any matter which is the subject of this Contract.

SECTION 11. NO WAIVER.

The failure of the County to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

SECTION 12. ENTIRE AGREEMENT.

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

SECTION 13. SEVERABILITY.

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: Escambia County, Florida through its Board of County Commissioners, signing by its County Administrator, duly authorized to execute this Agreement, and _____ signing by and through its President, duly authorized to execute same.

COUNTY:

Escambia County, Florida, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

Witness: _____

By: _____

County Administrator

Witness: _____

Date: _____

CONTRACTOR:

_____, a _____
Corporation, authorized to do business in the State of Florida.

ATTEST: Corporate Secretary

By: _____

By: _____
Secretary

Its: President

(Corporate Seal)

Date: _____

BCC Approved: _____

EXHIBIT A

GENERAL TERMS AND CONDITIONS

Section 1. INTENT OF CONTRACT DOCUMENTS

- 1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein.
- 1.2. If during the performance of the Work Contractor discovers a conflict, error or discrepancy in the Contract Document, Contractor immediately shall report same to Architect/Engineer in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the Architect/Engineer. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.
- 1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the Architect/Engineer. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.
- 1.4. "Architect", where referenced on the drawings or in the specifications or in other related documents, shall mean the Escambia County Architect or the designated representative thereof.

Section 2. INVESTIGATION AND UTILITIES

- 2.1. Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal,

handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quality of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

- 2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

Section 3. SCHEDULE

- 3.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to County, for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule may be provided in an electronic format. The Progress Schedule shall relate to all Work required by the Contract Documents and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work and shall include dates of Shop Drawing Submittals.
- 3.2. The Progress Schedule shall be updated monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the County's review and approval. Contractor shall submit the updates to the Progress Schedule with its Applications for Payment noted below. The County's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the County's obligation to pay Contractor.

Section 4. PROGRESS PAYMENTS

- 4.1. Prior to submitting its first Application for Payment, Contractor shall submit to County and the Architect/Engineer, for its review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the County and Architect/Engineer, this schedule of values shall be used as the basis for the Contractor's Applications for Payment. This schedule shall be updated and submitted along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.
- 4.2. Prior to submitting its first monthly Application for Payment, Contractor shall submit to County and the Architect/Engineer a complete list of all its proposed subcontractors and

materialmen, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after the Commencement Date.

- 4.3.** If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the County in writing, the Application for Payment will subdivide the work into component parts in sufficient detail to serve as the basis for a progress payment and shall also be accompanied by a bill of sale, invoice or other documentation warranting that upon payment by County, the County shall receive the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to the County's prior written approval.
- 4.4.** Contractor shall submit ____ (___) original copies of each of its Applications for Payment to the Architect/Engineer on or before the 25th day of each month for work performed during the previous month. Invoices received after the 25th day of each month shall be considered for payment as part of the next month's application. Within ten (10) calendar days after receipt of each Application for Payment, the Architect/Engineer shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial of the Application for Payment by the Architect/Engineer, the Contractor may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused by the Architect/Engineer, in whole or in part, the Contractor may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Contractor.

If the administrative decision is disputed, the Contractor may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Contractor will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision to the property owner within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within twenty (20) business days after County approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved.

- 4.5** County shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the County for payment, whichever is less. Such sum shall be accumulated and not released to Contractor until

final payment is due. Any interim interest on such sums shall accrue to County.

- 4.6 Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.
- 4.7 Each Application for Payment shall be accompanied by Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full. The County shall not be required to make payment until and unless these affidavits are furnished by Contractor.
- 4.8 Applications for Payment will not be approved unless all submittals required by the Contract documents, up to that point, are provided and "As-Built" record documents are maintained as required by Section 8.2.
- 4.9 Contractor agrees and understands that funding limitations exist and that the expenditure of funds must be spread over the duration of the Project at regular intervals based on the Contract Amount and Progress Schedule. Accordingly, prior to submitting its first monthly Application for Payment, Contractor shall prepare and submit for County's and Architect/Engineer's review and approval, a detailed Project Funding Schedule, which shall be updated as necessary and approved by County to reflect approved adjustments to the Contract Amount and Contract Time. No voluntary acceleration or early completion of the Work shall modify the time of payments to Contractor as set forth in the approved Project Funding Schedule.

Section 5. PAYMENTS WITHHELD.

- 5.1. The Architect/Engineer or County may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The Architect/Engineer or County may nullify the whole or any part of any approval for payment previously issued and County may withhold any payments otherwise due Contractor under this Agreement or any other agreement between County and Contractor, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents. If these conditions are not remedied or removed, County may, after three (3) days written notice, rectify the same at Contractor's expense. County also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to County, whether relating to or arising out of this Agreement or any other agreement between Contractor and County.

Section 6. FINAL PAYMENT

- 6.1. County shall make final payment to Contractor within thirty (30) calendar days after the Work is finally inspected and accepted by County and Architect/Engineer in accordance with Section 20.1 herein, provided that Contractor first, and as an explicit condition

precedent to the accrual of Contractor's right to final payment, shall have furnished County with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit D, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents or the County.

- 6.2.** Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against County arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by County shall be deemed to be a waiver of County's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the Architect/Engineer or County at the time of final inspection.

Section 7. SUBMITTALS AND SUBSTITUTIONS

- 7.1.** Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. When submitted for the Architect's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked, and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.
- 7.2.** Prior to submitting its first Application for Payment, Contractor shall provide to County a DVD or video tape in VHS format showing the pre-existing conditions located within the limits of construction.
- 7.3.** Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted by Contractor to allow the County to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by County from anyone other than Contractor and all such requests must be submitted by Contractor to County within thirty (30) calendar days after Notice to Proceed is received by Contractor.
- 7.4.** If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the County for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty.

All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the County in evaluating the proposed substitute. The County may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

- 7.5. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County, if Contractor submits sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the County shall be the same as those provided herein for substitute materials and equipment.
- 7.6. The County shall be allowed a reasonable time within which to evaluate each proposed substitute. The County shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the County's prior written acceptance, which shall be evidenced by either a Change Order or an approved Shop Drawing. The County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

Section 8. DAILY REPORTS, AS-BUILTS, AND MEETINGS

- 8.1. Unless waived in writing by County, Contractor shall complete and submit, along with its Application for Payment, to the County on a monthly basis a daily log of the Contractor's work for the preceding month in a format approved by the County. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:
 - 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
 - 8.1.2. Soil conditions which adversely affect the Work;
 - 8.1.3. The hours of operation by Contractor's personnel and subcontractor's personnel;
 - 8.1.4. The number of Contractor's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
 - 8.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
 - 8.1.6. Description of Work being performed at the Project site;
 - 8.1.7. Any unusual or special occurrences at the Project site;
 - 8.1.8. Materials received at the Project site; and

8.1.9. A list of all visitors to the Project site.

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to County or Architect/Engineer pursuant to the Contract Documents.

8.2. Contractor shall maintain in a safe place at the Project site one record copy of the Contract

Documents, as well as all shop drawings and other Contractor submittals and all written interpretations and clarifications issued by the County, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to County for reference. Upon completion of the Work, and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to County by Contractor.

8.3. Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

Section 9. CONTRACT TIME AND TIME EXTENSIONS

9.1. Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.

9.2. Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the County in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Contractor may have had to request a time extension.

- 9.3.** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which County may be responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from County. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against County will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

Section 10. CHANGES IN THE WORK

- 10.1.** County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of County is authorized to direct any extra or changed work orally.
- 10.2.** A Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and County concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Contractor shall mutually agree.
- 10.3.** If County and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by County in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by County. If Contractor disagrees with the County's adjustment determination, Contractor must make a claim pursuant to Section 11 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.
- 10.4.** In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.
- 10.5.** County shall have the right to conduct an audit of Contractor's books and records to

verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.

Section 11. CLAIMS AND DISPUTES

- 11.1.** A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between County and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- 11.2.** Claims by the Contractor shall be made in writing to the County and Architect/Engineer within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the County and Architect/Engineer within fifteen (15) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 10.4.
- 11.3.** The Contractor shall proceed diligently with its performance as directed by the County, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by the County in writing. County shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

Section 12. OTHER WORK

- 12.1.** County may perform other work related to the Project at the site by County's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Contractor. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact to County and Architect/Engineer within forty-eight (48) hours of being notified of the other work. If the Contractor fails to send the above required forty-eight (48) hour notice, the Contractor will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.
- 12.2.** Contractor shall afford each utility owner and other contractor (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the Architect/Engineer and the others whose work will be affected.
- 12.3.** If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or County), Contractor shall inspect and promptly report to Architect/Engineer in writing any delays, defects or deficiencies in such work

that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

Section 13. INDEMNIFICATION AND INSURANCE

- 13.1** Contractor shall pay on behalf of or indemnify and hold harmless County and its agents, officers and employees from and against all liabilities, damages, losses, and costs, including attorney's and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor or resulting from the use by Contractor, or by anyone for whom Contractor is legally liable, of any materials, tools, machinery or other property of County. Contractor's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor, and Contractor shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Contractor agree one percent (1%) of the Contract Amount paid by County to Contractor shall be given as separate consideration for this indemnification, and any other indemnification of County by Contractor provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Contractor by Contractor's acceptance and execution of the Agreement.

Contractor agrees that such indemnification by Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. Contractor's obligation to indemnify shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

- 13.2** Contractor shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies or trusts which are registered with the State of Florida. Foreign or off-shore insurance carriers are not acceptable for work under this contract unless admitted to the State of Florida. All commercial insurance carriers providing the Contractor with required insurance shall be a minimum financial size category of VII according to the AM Best Rating Guide, latest edition. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Within ten (10) calendar days after Notice of Award is received by Contractor and prior to the commencement of work, Contractor shall provide County with properly executed Certificates of Insurance to evidence Contractor's compliance with the insurance requirements of the Contract Documents. Said Certificates of Insurance shall be on forms approved by County, such as "Acord Form 25". The Certificates of Insurance shall be personally, manually signed by the authorized representatives of the insurance company/companies shown on the Certificates of Insurance, with proof that they are authorized representatives thereof.

Certificates of Insurance shall be mailed to Escambia County in care of: Purchasing Manager, Office of Purchasing, P.O. Box 1591, Pensacola, Florida 32597-1591. In addition, certified, true and exact copies of all insurance policies required hereunder shall be provided to County, on a timely basis, when requested by County.

- 13.3** The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice by registered or certified mail shall be given County of any cancellation, intent not to renew, or reduction in the policies or coverages, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of any policy, Contractor shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.
- 13.4** All insurance coverages of the Contractor shall be primary to any insurance or self insurance program carried by the County applicable to this Project. The acceptance by County of any Certificate of Insurance does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Contract Documents. No work shall commence at the Project site unless and until the required Certificates of Insurance are received by the County.
- 13.5** Contractor shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in Exhibit C, unless such insurance requirements for the subcontractor is expressly waived in writing by the County. All liability insurance policies, other than professional liability, worker's compensation and employer's liability policies, obtained by Contractor to meet the requirements of the Contract Documents shall name Escambia County as an additional insured and shall contain severability of interest provisions. Escambia County shall also be designated as certificate holder with the address of P. O. Box 1591, Pensacola, Florida 32597-1591. If any insurance provided pursuant to the Contract Documents expires prior to the completion of the Work, renewal Certificates of Insurance and, if requested by County, certified, true copies of the renewal policies, shall be furnished by Contractor within thirty (30) days prior to the date of expiration. Upon expiration of an insurance policy term during the course of work under the contract, succeeding insurance policies shall be consecutive to the expiring policy.
- 13.6** All liability policies shall be underwritten on the "occurrence" basis, unless otherwise approved in writing by the County Division of Risk Management. "Claims made" policies, if approved by the Risk Manager, and subsequent insurance certificates shall provide a "retro-date" which shall include the effective date of the contract. "Claims-made" renewals or carrier and policy replacements shall reflect the original "retro-date."
- 13.7** Should at any time the Contractor not maintain the insurance coverages required herein, the County may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.
- 13.8** Contractor shall submit to County a copy of all accident reports arising out of any personal injuries or property damages arising or alleged to have arisen on account of

any work by Contractor or sub-Contractor under the contract documents.

- 13.9** Duty To Provide Legal Defense. Contractor shall pay for and provide a legal defense for the County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by the County, for all liabilities, damages, losses, and costs as described in paragraph 13.1 above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

Section 14. COMPLIANCE WITH LAWS

- 14.1.** Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify County and Architect/Engineer in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Florida Department of Transportation Manual of Traffic Control and Safe Practices. Failure to adhere to the requirements of the above named laws and regulations regarding safety and traffic control shall be grounds for an immediate work stoppage, either by County staff or the Contractor, until the deficiency is corrected.

14.2 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Section 15. CLEANUP AND PROTECTIONS.

- 15.1.** Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by County.

- 15.2.** Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work. Non-compliance with directives of this section may serve as a basis of rejection of Application for Payment.

Section 16. ASSIGNMENT

- 16.1** Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward County.

Section 17. PERMITS, LICENSES AND TAXES.

- 17.1.** All permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Contractor. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Contractor to County have been disclosed to Contractor in the bidding documents or other request for proposal at the time the Project was let for bid. If Contractor performs any Work without obtaining, or contrary to, such permits or licenses, Contractor shall bear all costs arising therefrom. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.
- 17.2.** Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

Section 18. TERMINATION FOR DEFAULT.

- 18.1** Contractor shall be considered in material default of the Agreement and such default shall be considered cause for County to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the County or Architect/Engineer or as provided for in the approved Progress Schedule; or (4) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (5) discontinues the prosecution of the Work; or (6) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (7) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (8) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (9) makes an assignment for the benefit of creditors; or (10) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (11) materially breaches any other provision of the Contract Documents.
- 18.2** County shall notify Contractor in writing of Contractor's default(s). If County determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then County, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without

prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's Work by whatever means, method or agency which County, in its sole discretion, may choose.

- 18.3** If County deems any of the foregoing remedies necessary, Contractor agrees that it shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including Architect/Engineer and attorneys' fees) or damages incurred by County incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to County on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the County to complete the Work, such excess shall be paid to the Contractor. The amount to be paid to the Contractor or County, as the case may be, shall be certified by the Architect/Engineer, upon application, and this obligation for payment shall survive termination of the Agreement.
- 18.4** The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by County in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefore or re-letting the Work, in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.
- 18.5** If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that County is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against County shall be the same as and limited to those afforded Contractor below under Subsection 19.1, Termination for Convenience.
- 18.6** If the Contractor refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement then the County may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven (7) days written notice, during which period Contractor still fails to allow access, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Contractor, and may finish the project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Contractor (excluding monies owed the Contractor for subcontract work).

Section 19. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION

- 19.1.** County shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against County shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against County, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.
- 19.2.** County shall have the right to suspend all or any portions of the Work upon giving Contractor two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds three (3) months, the Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

Section 20. COMPLETION

- 20.1.** Upon receipt of written notice, the County will ascertain whether the work or designated portions thereof are ready for the Architect's substantial completion inspection. From the Architect's list of incomplete or unsatisfactory items, a schedule for the County's review will be prepared for their completion indicating such completion dates. The County will issue a Certificate of Substantial Completion when the work has been deemed substantially complete by the County.
- 20.2.** Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the County shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a Certificate of Final Completion and Recommendation for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor is due and payable. The final payment shall not become due and payable until Contractor submits: (1) the Release and Affidavit in the form attached as Exhibit D, (2) consent of surety to final payment, (3) if required by County, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County, (4) a published copy of the Notice of Completion as provided for in this section and (5) all required close out document as provided in the contract documents. County reserves the right to inspect the Work and make an independent determination as to the Work's acceptability. Unless and until the County is completely satisfied, the final payment shall not become due and payable.
- 20.3.** After the Work is ready for final inspection and acceptance by the County, a legal advertisement must be published by the Contractor in a local newspaper of a general countywide circulation at least thirty (30) days before final payment shall be made. Example of such publication is as follows:

Legal Notice of Completion

Notice is hereby given that the undersigned Contractor has completed and has ready for acceptance by the Board of County Commissioners of Escambia County, Florida, the following construction project:

(Project Name and Address)

(Legal Name and Address - entity of the Contractor)

Subcontractors, material men, and other persons having payment claims against the Contractor relating to this project should govern themselves accordingly.

Section 21. WARRANTY

- 21.1.** Contractor shall obtain and assign to County all express warranties given to Contractor or any subcontractors by any material men supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within two (2) years after substantial completion and acceptance, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from County. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work, which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which County is entitled as a matter of law. The Performance Bond shall remain in full force and effect throughout the two (2) year Warranty Period.

Section 22. TESTS AND INSPECTIONS

- 22.1.** County, Architect/Engineer, their respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide Architect/Engineer with timely notice of readiness of the Work for all required inspections, tests or approvals.
- 22.2.** If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish Architect/Engineer the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the

Architect/Engineer and County.

- 22.3.** If any Work that is to be inspected, tested or approved is covered without written concurrence from the Architect/Engineer, such work must, if requested by Architect/Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Architect/Engineer timely notice of Contractor's intention to cover the same and Architect/Engineer has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from Architect/Engineer, such Work must, if requested by Architect/Engineer, be uncovered for Architect/Engineer's observation and be replaced at Contractor's sole expense.
- 22.4.** The County shall charge to Contractor and may deduct from any payments due Contractor all engineering and inspection expenses incurred by County in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.
- 22.5.** Neither observations by the Architect/Engineer nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.
- 22.6.** Prior to payment for any Work for which testing is specified, Contractor shall provide the County a copy of reasonably acceptable test results relating to such work as required by the technical specifications of the solicitation.

Section 23. DEFECTIVE WORK

- 23.1.** Work not conforming to the requirements of the construction plans or Contract Documents or work conforming to the construction plans or contract documents containing errors or omissions, including, but not limited to, design flaws shall be deemed defective Work. If required by County or Architect/Engineer, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by County or Architect/Engineer, remove it from the site and replace it with undefective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold County harmless for same.
- 23.2.** If the County or Architect/Engineer considers it necessary or advisable that covered Work be observed by Architect/Engineer or inspected or tested by others, Contractor, at County's or Architect/Engineer's request, shall uncover, expose or otherwise make available for observation, inspection or tests as County or Architect/Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and County shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such

uncovering, exposure, observation, inspection, testing and reconstruction.

- 23.3.** If any portion of the Work is defective, or Contractor fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, County or Architect/Engineer may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County or Architect/Engineer to stop the Work shall not give rise to any duty on the part of County or Architect/Engineer to exercise this right for the benefit of Contractor or any other party.
- 23.4.** Should the County determine, at its sole opinion, it is in the County's best interest to accept defective Work, the County may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the County's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the County accepts such defective Work after final payment, Contractor at the discretion of the County shall promptly pay County an appropriate amount to adequately compensate County for its acceptance of the defective Work or shall increase in the Work's warranty period beyond two (2) years.
- 23.5.** If Contractor fails, within a reasonable time after the written notice from County or Architect/Engineer, to correct defective Work or to remove and replace rejected defective Work as required by Architect/Engineer or County, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, County may, after seven (7) days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possessions of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County or Architect/Engineer, and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable County to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of County in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

Section 24. SUPERVISION AND SUPERINTENDENTS

- 24.1.** Contractor shall supervise 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 responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to County except under extraordinary circumstances. The superintendent shall be Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. County shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

Section 25. PROTECTION OF WORK

- 25.1.** Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor, or any one for whom Contractor is legally liable, is responsible for any loss or damage to the Work, or other work or materials of County or County's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.
- 25.2.** 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 property to stresses or pressures that will endanger it.

Section 26. EMERGENCIES

- 26.1.** In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from County or Architect/Engineer is obligated to act to prevent threatened damage, injury or loss. Contractor shall give Architect/Engineer written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the Architect/Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

Section 27. USE OF PREMISES

- 27.1.** Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the

performance of the Work.

Section 28. SAFETY

- 28.1.** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- 28.1.1.** All employees of the Work and other persons and/or organizations who may be affected thereby;
- 28.1.2.** All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and
- 28.1.3.** Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.
- 28.2** The Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by County has occurred.
- 28.3** The Contractor shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by the Contractor to the County.
- 28.4** The Contractor shall adhere at all times to the minimum safety guidelines for construction and renovation projects as set out in Exhibit C of this Agreement.

Section 29. PROJECT MEETINGS.

- 29.1.** Prior to the commencement of Work, the Contractor shall attend a preconstruction conference with the County to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the Architect/Engineer or County with respect to the Project, when directed to do so by County or Architect/Engineer. Contractor shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by the County or Architect/Engineer.

EXHIBIT B
PERFORMANCE AND PAYMENT BOND

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

(Insert name, address, and phone number of contractor), as Principal, and

_____,
(Insert full name, home office address and phone number of surety) as Surety, are held and firmly bound unto the Board of County Commissioners for Escambia County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, as Obligee in the sum of

_____ Dollars (\$_____), for the payment whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Principal has entered into a contract dated as of the _____ day of _____, 20____, with Obligee for Contract No. _____,

(Insert name of project, including legal description, street address of property and general description of improvement) in accordance with drawings and specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract; and
3. Performs the guarantee of all work and materials furnished under the Contract applicable to the work and materials, then this bond is void; otherwise it remains in full force; and
4. Principal understands and agrees that this bond shall remain in full force and effect throughout the two (2) year warranty period after substantial completion of the work.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond.

In no event will the Surety be liable in the aggregate to Obligor for more than the penalty sum of this Performance Bond, regardless of the number of suits that may be filed by Obligor.

IN WITNESS WHEREOF, the above parties have executed this instrument this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these premises duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)
Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

ATTEST:

SURETY: _____

(Printed Name)

Witness

(Business Address)

Witness

(Authorized Signature)

(Printed Name)
OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,
20____ by _____, as _____ of
_____ as Surety, on behalf of Surety. He/she is personally known to me
OR has produced _____ as identification and did (did not) take an oath.
My Commission Expires:

(Signature)

Name:

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of

Serial No., If Any:

BOND NO. _____

PAYMENT BOND

BY THIS BOND, We, _____

(Insert name, address and phone number of contractor)

(hereinafter called the "Principal")

and _____ (hereinafter called the "Surety"),
(Insert name)

located at _____, a surety insurer

(Insert address and phone number)

chartered and existing under the laws of the State of _____ and authorized to do business

in the State of Florida, are held and firmly bound unto the Board of County Commissioners for Escambia

County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, (hereinafter called

the "County") in the sum of _____ (\$ _____) for

payment of which we bind ourselves, our heirs, our personal representatives, our successors and our assignees, jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement relating to Contract No. _____

(hereinafter referred to as the "Contract") as of _____ (the bid award date for projects thereto)

for the purpose of _____

(Insert name of project, including legal description, street address of property and general description of improvement.)

said Contract being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Performs the contract dated _____, _____, between Principal and County for construction of _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all loses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that the County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

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.

BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the County of any extension of time for the performance of the said Contract, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to Section 255.05, Florida Statutes.

THIS BOND DATED THE _____ DAY OF _____, 20____ (the date of issue by the Surety or by the Surety's agent and the date of such agents power-of-attorney).

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

ATTEST:

SURETY: _____

(Printed Name)

Witness

(Business Address)

(Authorized Signature)

Witness

(Printed Name)

OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____

COUNTY OF _____

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

_____ of _____ as Surety, on behalf of Surety. He/she is personally known to me

OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT C
INSURANCE AND SAFETY

INSURANCE - BASIC COVERAGES REQUIRED

The Contractor shall procure and maintain the following described insurance, except for coverages specifically waived by the County. Such policies shall be from insurers with a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Such on policies shall provide coverages for any or all claims which may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of the Contract Documents, whether such services, work and operations be by the Contractor, its employees, or by subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

The Contractor shall require, and shall be responsible for assuring throughout the time the Agreement is in effect, that any and all of its subcontractors obtain and maintain until the completion of that subcontractor's work, such of the insurance coverages described herein as are required by law to be provided on behalf of their employees and others.

The required insurance shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

These insurance requirements shall not limit the liability of the Contractor. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor's interests or liabilities, but are merely minimums.

Except for workers compensation and professional liability, the Contractor's insurance policies shall be endorsed to name Escambia County as an additional insured to the extent of its interests arising from this agreement, contract or lease.

The Contractor waives its right of recovery against the County, to the extent permitted by its insurance policies.

The Contractor's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Contractor is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Contractor or any other insurance of the Contractor shall be considered primary, and insurance of the County, if any, shall be considered excess, as may be applicable to claims obligations, which arise out of this agreement, contract or lease.

Workers Compensation Coverage

The Contractor shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease, or a valid certificate of exemption issued by the state of Florida, or an affidavit in accordance with the provisions of Florida Workers Compensation law.

Contractor shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile And Excess Or Umbrella Liability Coverage

The Contractor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage coverages, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Contractor is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages. Umbrella coverage shall drop down to provide coverage where the underlying limits are exhausted.

Evidence/Certificates of Insurance

Required insurance shall be documented in Certificates of Insurance. If and when required by the County, Certificates of Insurance shall be accompanied by documentation that is acceptable to the County establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of each insurance company underwriting the insurance coverages(s) indicated on each Certificate of Insurance.

New Certificates of Insurance are to be provided to the County at least 30 days prior to coverage renewals. Failure of the Contractor to provide the County with such renewal certificates may be considered justification for the County to terminate this agreement, contract or lease.

Certificates should contain the following additional information.

1. Indicate that Escambia County is an additional insured on the general liability

- policy.
2. Include a reference to the project and the Office of Purchasing number.
 3. Disclose any self-insured retentions in excess of \$1,000.
 4. Designate Escambia County as the certificate holder as follows:
Escambia County
Attention: _____
Office of Purchasing
P.O. Box 1591
Pensacola, FL 32597-1591
Fax (850) 595-4805
 5. Indicate that the County shall be notified at least 30 days in advance of cancellation.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein.

If requested by the County, the Contractor shall furnish complete copies of the Contractor's insurance policies, forms and endorsements, and/or such additional information with respect to its insurance as may be requested.

For Commercial General Liability coverage the Contractor shall, at the option of the County, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

ENDORSEMENTS/ADDITIONAL INSURANCE

If checked below, the County requires the following endorsements or additional types of insurance.

☐ **TERMINATION/ADVERSE CHANGE ENDORSEMENT**

All of Contractor's policies, except for professional liability and workers compensation insurance, are to be endorsed, and the Contractor's Certificate(s) of Insurance shall state, that the County shall be notified at least 30 days in advance of cancellation, non-renewal or adverse change.

☐ **PROPERTY COVERAGE FOR LEASES**

The Contractor shall procure and maintain for the life of the lease, all risk/special perils (including sinkhole) property insurance (or its equivalent) to cover loss resulting from damage to or destruction of the building and personal property/contents. The policy shall cover 100% replacement cost, and shall include an agreed value endorsement to waive coinsurance.

Coverage shall also include continued full payment of rents to the County for up to one year after damage or destruction of the property

☐ **COMMERCIAL GENERAL LIABILITY COVERAGE PROJECT AGGREGATE**

Because the Commercial General Liability form of coverage includes an annual aggregate limitation on the amount of insurance provided, a separate project aggregate limit of \$_____ is required by the County for this agreement or contract.

☐ **LIQUOR LIABILITY**

In anticipation of alcohol being served, the Contractor shall provide evidence of coverage for liquor liability in an amount equal to the general/umbrella/excess liability coverage. If the general liability insurance covers liquor liability (e.g. host or other coverage), the Contractor's agent or insurer should provide written documentation to confirm that coverage already applies to this agreement, contract or lease. If needed coverage is not included in the general/umbrella/excess liability policy(ies), the policy(ies) must be endorsed to extend coverage for liquor liability, or a separate policy must be purchased to provide liquor liability coverage in the amount required.

☐ **OWNERS PROTECTIVE LIABILITY COVERAGE**

For renovation or construction contracts the Contractor shall provide for the County an owners protective liability insurance policy (preferably through the Contractor's insurer) in the name of the County.

This is redundant coverage if the County is named as an additional insured in the Contractor's Commercial General Liability insurance policy. However, this separate policy may be the only source of coverage if the Contractor's liability coverage limit is used up by other claims.

☐ **BUILDERS RISK COVERAGE**

Builders Risk insurance is to be purchased to cover subject property for all risks of loss, subject to a waiver of coinsurance, and covering off-site storage, transit and installation risks as indicated in the Installation Floater and Motor Truck Cargo insurance described hereafter, if such coverages are not separately provided.

The Builders Risk insurance is to be endorsed to cover the interests of all parties, including the County and all contractors and subcontractors. The insurance is to be endorsed to grant permission to occupy.

☐ **INSTALLATION FLOATER COVERAGE**

Installation Floater insurance is to be purchased when Builder's Risk insurance is inappropriate, or when Builder's Risk insurance will not respond, to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The amount of coverage should be adequate to provide full replacement value of the property, repairs, additions or equipment being installed, otherwise being handled or stored on or off premises. All risks coverage is preferred.

☐ **MOTOR TRUCK CARGO COVERAGE**

If the Installation Floater insurance does not provide transportation coverage, separate Motor Truck Cargo or Transportation insurance is to be provided for materials or equipment transported in the Contractor's or other vehicles from place of receipt to building sites or other storage sites. All risks coverage is preferred.

☐ **CONTRACTOR'S EQUIPMENT COVERAGE**

Contractor's Equipment insurance is to be purchased to cover loss of equipment and machinery utilized in the performance of work by the Contractor. All risks coverage is

preferred.

☐ **FIDELITY/DISHONESTY COVERAGE - FOR EMPLOYER**

Fidelity/Dishonesty insurance is to be purchased to cover dishonest acts of the Contractor's employees, including but not limited to theft of vehicles, materials, supplies, equipment, tools, etc., especially property necessary to work performed.

☐ **FIDELITY/DISHONESTY/LIABILITY COVERAGE - FOR COUNTY**

Fidelity/Dishonesty/Liability insurance is to be purchased or extended to cover dishonest acts of the Contractor's employees resulting in loss to the County.

☐ **GARAGE LIABILITY COVERAGE**

Garage Liability insurance is to be purchased to cover the Other Party and its employees for its garage and related operations while in the care, custody and control of the County's vehicles.

☐ **GARAGEKEEPERS COVERAGE (LEGAL LIABILITY FORM)**

Garagekeepers Liability insurance is to be purchased to cover the Other Party's liability for damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds only when the Other Party is legally liable for the loss.

☐ **GARAGEKEEPERS COVERAGE (DIRECT-EXCESS FORM)**

Garagekeepers Liability insurance is to be purchased to cover damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds on a legal liability basis, and also without regard to legal liability on an excess basis over any other collectible insurance.

☐ **WATERCRAFT LIABILITY COVERAGE**

Because the Contractor's provision of services involves utilization of watercraft, watercraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any watercraft, including owned, non-owned and hired.

Coverage may be provided in the form of an endorsement to the general liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity.

☐ **UNITED STATES LONGSHOREMEN AND HARBORWORKERS ACT COVERAGE**

The Workers Compensation policy is to be endorsed to include United States Longshoremen and Harborworkers Act Coverage for exposures, which may arise from this agreement or contract.

☐ **JONES ACT COVERAGE**

The Workers Compensation policy is to be endorsed to include Jones Act Coverage for

exposures, which may arise from this agreement or contract.

☐ **AIRCRAFT LIABILITY COVERAGE**

Because the Contractor's provision of services involves utilization of aircraft, aircraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any aircraft, including owned, non-owned and hired.

The minimum limits of coverage shall be \$____,000,000 per occurrence, Combined Single Limit for Bodily Injury (including passenger liability) and Property Damage.

☐ **POLLUTION/ENVIRONMENTAL IMPAIRMENT LIABILITY COVERAGE**

Pollution/environmental impairment liability insurance is to be purchased to cover pollution and/or environmental impairment, which may arise from this agreement or contract.

☐ **PROFESSIONAL LIABILITY/MALPRACTICE/ERRORS OR OMISSIONS INSURANCE**

The Contractor shall purchase and maintain professional liability or malpractice or errors or omissions insurance coverage with a minimum limit of \$1,000,000, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

MINIMUM PROJECT SAFETY REQUIREMENTS

The following safety requirements represent the minimum condition, which shall be met by all Contractors and subcontractors performing work for Escambia County: Reported or observed violations of Federal and State laws and regulations, or County ordinances shall be brought to the attention of the County project manager and County's Department of Safety and Risk Services and shall be immediately corrected by the Contractor. Additionally, the County may order work to be stopped if conditions exist that present immediate danger to persons or property. The Contractor acknowledges that any such stoppage will not shift responsibility for any damages from the Contractor to the County. Failure to comply with required safety procedures shall result in the suspension of the Work of the Contractor until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Contractor may be referred by the County's Department of Safety and Risk Services for inspection or interpretation. The Contractor shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

- (1) Prior to the commencement of the project, the Contractor and all subcontractors shall provide to the County a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.
- (2) The Contractor shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including County and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Contractor representative or by the project manager or designee.
- (3) The Contractor shall provide all necessary safety equipment for County staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Contractor or required by State or Federal safety regulations.
- (4) Construction vehicles on the work site shall always be operated in a safe manner. The Contractor shall take appropriate action to ensure the safety of County staff, visitors, and the general public while operating work vehicles at a "controlled" construction site. Where conditions warrant, or at the request of the County, temporary barriers shall also be established for these traffic areas.
- (5) The Contractor shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to County staff, visitors, or the general public. At a minimum, the project site shall be posted with the appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: THIS AREA IS A DESIGNATED CONSTRUCTION SITE; ANYONE TRESPASSING ON THIS PROPERTY SHALL, UPON CONVICTION, BE GUILTY OF A FELONY; "A DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY," and other general safety warning signs, i.e., "HARD HAT AREA,"

as are deemed necessary by the Contractor and project manager.

- (6) In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the County safety Office. Alternative measures may include, but are not limited to, working during “off” hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the County).
- (7) The Contractor shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the County’s Department of Safety and Risk Services and the appropriate life safety code inspector), shall the life safety code components of an occupied facility be reduced or otherwise compromised.

A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Contractor shall communicate with each subcontractor and County’s Department of Safety and Risk Services as to scheduling of events that may pose hazards or inconveniences to building occupants. The Contractor shall also ensure that appropriate scheduling information is also conveyed to the project manager.

- When a project alters a building’s fire protection compartment features, such as fire barriers, smoke barriers, or corridor walls, exits must provide free and unobstructed egress. Employees shall receive notice if any alternative exits have been designated. Buildings or areas under construction must maintain escape egress for construction workers at all times. These means of egress shall be inspected daily by the Contractor.
 - When a project affects fire alarms, fire detection, or fire suppression systems, of a building that is occupied, the Contractor must ensure that such systems are not functionally impaired. Any temporary systems, which are installed, must be inspected and tested monthly by the Contractor. Employees must be notified when such temporary systems are in place.
 - When any sources of ignition are present, such as welding torches, smoking by all persons shall be prohibited on any construction site and in any County facility.
- (8) Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Contractor to adhere to the following guidelines at a minimum:
 - (a) The Contractor shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The

Contractor shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the County's Department of Safety and Risk Services. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.

- (b) Material Safety Data Sheets (MSDS) shall be provided to the County's Department of Safety and Risk Services for all hazardous substances used on the project or brought on the job site. These products include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.
- (c) Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Contractor shall also determine whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Contractor.
- (d) The Contractor should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.
- (9) The Contractor shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing County 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.
- (10) The Contractor agrees and understands that all County construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or County regulatory agencies.
- (11) The Contractor shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Contractor shall ensure that these containers are subsequently emptied on a regular basis.
- (12) Water runoff and soil erosion from the project site shall be controlled by the Contractor pursuant to the regulations of the Florida Department of Environmental Protection.
- (13) Water-based paint and stain products shall be used by the Contractor in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior written approval from the County's Department of Safety and Risk Services shall be

obtained before their use.

- (14) The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior written approval for use of these metals shall be obtained by the Contractor from the County's Department of Safety and Risk Services.
- (15) The use of any radioactive materials by the Contractor on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Contractor to the project manager and County's Department of Safety and Risk Services for review.
- (16) The County contracts out the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement contractors. General contractors, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Contractors who encounter such materials shall immediately stop work and notify the project manager and the County's Department of Safety and Risk Services.
- (17) The above-cited guidelines represent minimum expectations and actions, which shall be taken by Contractors while under contract for County construction and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager and County's Department of Safety and Risk Services.

EXHIBIT D
RELEASE AND AFFIDAVIT

COUNTY OF ESCAMBIA)
)
STATE OF FLORIDA)

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Contractor") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Board of County Commissioners of Escambia County, Florida, ("County") relating in any way to the performance of the Agreement between Contractor and County dated _____, 20____, for the period from _____ to _____.

(2) Contractor certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Contractor agrees to indemnify, defend and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against the County arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with Contractor's (monthly/final) Application for Payment No. _____.

CONTRACTOR:

By: _____

Its: _____ President

Witness

Date: _____

Witness

[Corporate Seal]

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT E

FORM OF CONTRACT APPLICATION FOR PAYMENT

- AIA DOCUMENT #G702, 1992 EDITION
- AIA DOCUMENT #G703, 1992 EDITION

SAMPLE

EXHIBIT F
CONSTRUCTION CHANGE ORDER

Change Order Number _____

Contract Number PD _____

Date: _____

Dated _____

To: _____

Project Name: _____

You hereby are authorized and directed to make the following changes in accordance with terms and conditions of the Agreement:

Describe changes here;

	Dollars	Time in Calendar Days
Original Contract Amount	\$ _____	_____
Sum of Previous Changes	\$ _____	_____
This Change Order	\$ _____	_____

Adjusted Agreement Amount	\$ _____	_____

The contract substantial completion date will be **increased/decreased** by ____ calendar days due to this Change Order. The new contract substantial completion date is _____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay cost.

The Contract Administrator has directed the Contractor to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or

greater value Change Order.

☐ Check if applicable and provide written confirmation from the bonding company/agent (attorney-in-fact) that the amount of the Performance and Payment bonds have been adjusted to 100% of the new contract amount.

Accepted: _____, 20____

By: _____
Contractor

By: _____
Architect

By: _____
Owner

SAMPLE

**STANDARD CONSTRUCTION CONTRACT
DOCUMENTS**

FOR

**AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF
ESCAMBIA COUNTY, FLORIDA**

AND

FORM B: Construction

(Revised 2013)

**STANDARD CONSTRUCTION CONTRACT
FORM B**

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FOR _____

THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, ("County"), hereby contracts with _____, a _____ corporation for profit, to perform all work ("Work") in connection with _____ ("Project"), as said Work is set forth in the Plans and Specifications prepared by _____, and other Contract Documents hereafter specified.

SECTION 1. CONTRACT DOCUMENTS

A. The Contract Documents consist of this Agreement, the Exhibits described in Section 6 hereof, Change Orders, Work Directive Changes, Field Orders and amendments relating thereto. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents including this Agreement sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.

B. County shall furnish to the Contractor up to ____ () set(s) of the Contract Documents for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

SECTION 2. SCOPE OF WORK

Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good workmanlike manner the Work required by the Contract Documents.

SECTION 3. CONTRACT AMOUNT

In consideration of the faithful performance by Contractor of the covenants in this Agreement to the full satisfaction and acceptance of County, County agrees to pay, or cause to be paid, to Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement:

[DESCRIBE CONTRACT AMOUNT]

SECTION 4. BONDS

A. Contractor shall provide Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of 100% of the Contract Amount, the costs of which to be paid by Contractor. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to County; provided; however, the surety shall be rated as "A-" (excellent) or better and Class "V" or higher rating as to financial size category and the amount required shall not exceed 2% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.

B. If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Document, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval.

C. Per §255.05, Florida Statutes, the Contractor shall be required to execute and record the Performance and Payment bonds. The bonds must state the name and principal business address of both the Principal and the Surety and a description of the Project sufficient to identify it. (The filing costs are \$10.00 for the first page and \$8.50 for each remaining page).

SECTION 5. CONTRACT TIME AND LIQUIDATED DAMAGES

A. Time is of the essence in the performance of the Work under this Agreement. The "Commencement Date" shall be established in the Notice to Proceed to be issued by the County. Contractor shall commence the Work within five (5) calendar days from the Commencement Date. No Work shall be performed at the Project site prior to the Commencement Date. Any Work performed by Contractor prior to the Commencement Date shall be at the sole risk of Contractor. The Work shall be substantially completed within _____ () calendar days from the Commencement Date. The Work shall be fully completed and ready for final acceptance by the County within _____ () calendar days from the Commencement Date (herein "Contract Time"). No work under this contract shall commence until certificates of insurance (see Exhibit A, paragraph 13.2) have been received and acknowledged by the Purchasing Manager.

B. County and Contractor recognize that, since time is of the essence for this Agreement, County will suffer financial loss if the Work is not substantially completed within the time specified above, as said time may be adjusted as provided for herein. Should Contractor fail to substantially complete the Work within the time period noted above, County shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed on the date the County issues a Substantial Completion Certificate pursuant to the terms hereof.

C. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the County's actual damages at the time of contracting if Contractor fails to substantially complete the Work in accordance with the progress schedule.

D. When any period of time is reference to by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

SECTION 6. EXHIBITS INCORPORATED

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Exhibit A: General Terms and Conditions
Exhibit B: Form of Performance and Payment Bonds
Exhibit C: Insurance Requirements
Exhibit D: Form of Release and Affidavit
Exhibit E: Form of Contractor Application for Payment
Exhibit F: Form of Change Order
Exhibit G: Supplemental Terms and Conditions
Exhibit H: Plans and Specifications prepared by County and Identified as follows:

Exhibit I: [DESCRIPTION/SHEET NO./DATE]
Technical Specifications
[DESCRIPTION SHEET NO./DATE]
Exhibit J: Standard Details
[DESCRIPTION SHEET NO./DATE]

SECTION 7. NOTICES

A. All notices required or made pursuant to this Agreement by the Contractor to the County shall be in writing and delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Attention: _____

B. All notices required or made pursuant to this Agreement by County to Contractor shall be made in writing and shall be delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

**[INSERT NAME OF CONTRACTOR, ADDRESS AND
NAME OF PERSON WITH HIS OR HER TITLE TO
WHOSE ATTENTION THE NOTICE SHOULD BE SENT]**

C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

SECTION 8. MODIFICATION

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

SECTION 9. SUCCESSORS AND ASSIGNS

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

SECTION 10. GOVERNING LAW

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida and the parties agree that venue shall be in Escambia County, Florida for any matter which is the subject of the Contract.

SECTION 11. NO WAIVER

The failure of the County to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be

a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

SECTION 12. ENTIRE AGREEMENT

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

SECTION 13. SEVERABILITY

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) indicated below.

COUNTY:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

WITNESS: _____

By: _____
County Administrator

WITNESS: _____

Date: _____

Approved as to form and legal
sufficiency.

By/Title: _____

Date: 6/25/13

BCC Approved: (DATE)

CONTRACTOR:

By: _____
(Name)

Its: President

ATTEST: Corporate Secretary

By: _____

Secretary

[CORPORATE SEAL]

Date: _____

EXHIBIT A

GENERAL TERMS AND CONDITIONS

Section 1. INTENT OF CONTRACT DOCUMENTS

1.1 It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words, which have a well known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein.

1.2. If during the performance of the Work Contractor discovers a conflict, error or discrepancy in the Contract Document, Contractor immediately shall report same to County in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the County. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.

1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the County. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

Section 2. INVESTIGATION AND UTILITIES

2.1 Contractor shall have the sole responsibility of satisfying itself concerning

the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quality of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

Section 3. SCHEDULE

3.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to County, for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule may be provided in an electronic format. The Progress Schedule shall relate to all Work required by the Contract Documents and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work.

3.2. The Progress Schedule shall be updated bi-monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the County's review and approval. Contractor shall submit the updates to the Progress Schedule with its Applications for Payment noted below. The County's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the County's obligation to pay Contractor. **[NOTE: FOR LARGER PROJECTS, THROUGH THE SUPPLEMENTAL CONDITIONS OR TECHNICAL SPECIFICATIONS, COUNTY MAY WISH TO EXPAND UPON THE LEVEL OF DETAIL REQUIRED FOR THE PROJECT SCHEDULE.]**

Section 4. PROGRESS PAYMENTS

4.1. Prior to submitting its first Application for Payment, Contractor shall submit to County, for its review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the County, this schedule of values shall be used as the basis for the Contractor's Applications for Payment. This schedule shall be updated and submitted along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.

4.2. Prior to submitting its first Monthly Application for Payment, Contractor shall submit to County a complete list of all its proposed subcontractors and materialmen, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after Commencement Date.

4.3. If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the County in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that upon payment by County, the County shall receive the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to the County's prior written approval.

4.4. Contractor shall submit _____ () copies of each of its Applications for Payment to the County on or before the 25th day of each month for work performed during the previous month. Invoices received after the 25th day of each month shall be considered for payment as part of the next month's application. Within ten (10) calendar days after receipt of each Application for Payment, the County shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial of the Application for Payment, the Contractor may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused, in whole or in part, the Contractor may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Contractor.

If the administrative decision is disputed, the Contractor may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Contractor will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within twenty (20) business days after County approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved by the County.

4.5. County shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the County for payment, whichever is less. Such sum shall be accumulated and not released to Contractor until final payment is due. Any interim interest on such sums shall accrue to County.

4.6. Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.

4.7. Each Application for Payment shall be accompanied by Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested or have been paid in full. The County shall not be required to make payment until and unless these affidavits are furnished by Contractor.

4.8. Applications for Payment will not be approved unless all submittals required by the Contract documents, up to that point, are provided and "As-Built" record documents are maintained as required by Section 8.2.

4.9 (OPTIONAL) Contractor agrees and understands that funding limitations exist and that the expenditure of funds must be spread over the duration of the Project at regular intervals based on the Contract Amount and Progress Schedule. Accordingly, prior to submitting its first monthly Application for Payment, Contractor shall prepare and submit for County's approval, a detailed Project Funding Schedule, which shall be updated as necessary and approved by County to reflect approved adjustments to the Contract Amount and Contract Time. No voluntary acceleration or early completion of the Work shall modify the time of payments to Contractor as set forth in the approved Project Funding Schedule.]

Section 5. PAYMENTS WITHHELD

5.1. The County may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The County may nullify the whole or any part of any approval for payment previously issued and County may withhold any payments otherwise due Contractor under this Agreement or any other agreement between County and Contractor, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents. If these conditions are not remedied or removed, County may, after three (3) days written notice, rectify the same at Contractor's expense. County also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to County, whether relating to or arising out of this Agreement or any other agreement between Contractor and County.

Section 6. FINAL PAYMENT

6.1. County shall make final payment to Contractor within thirty (30) calendar days after the Work is finally inspected and accepted by County in accordance with Section 20.1 herein, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished County with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit D, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents or the County.

6.2. Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against County arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by County shall be deemed to be a waiver of County's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the County at the time of final inspection.

Section 7. SUBMITTALS AND SUBSTITUTIONS

7.1. Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Contractor shall submit all such materials at its

own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.

7.2 Prior to submitting its first Application for Payment, Contractor shall provide to County a DVD or video tape in VHS format showing the pre-existing conditions located within the limits of construction.

7.3. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted by Contractor to allow the County to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by County from anyone other than Contractor and all such requests must be submitted by Contractor to County within thirty (30) calendar days after Notice of Award is received by Contractor.

7.4. If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the County for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the County in evaluating the proposed substitute. The County may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

7.5. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County, if Contractor submits sufficient information to allow the County to determine that the substitute proposed is equivalent to that

indicated or required by the Contract Documents. The procedures for submission to and review by the County shall be the same as those provided herein for substitute materials and equipment.

7.6. The County shall be allowed a reasonable time within which to evaluate each proposed substitute. The County shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the County's prior written acceptance which shall be evidenced by either a Change Order or an approved Shop Drawing. The County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

Section 8. DAILY REPORTS, AS-BUILTS AND MEETINGS

8.1. Unless waived in writing by County, Contractor shall complete and submit to the County on a weekly basis a daily log of the Contractor's work for the preceding week in a format approved by the County. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:

- 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
- 8.1.2. Soil conditions which adversely affect the Work;
- 8.1.3. The hours of operation by Contractor's and subcontractor's personnel;
- 8.1.4. The number of Contractor's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
- 8.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
- 8.1.6. Description of Work being performed at the Project site;
- 8.1.7. Any unusual or special occurrences at the Project site;
- 8.1.8. Materials received at the Project site; and
- 8.1.9. A list of all visitors to the Project site.

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to County pursuant to the Contract Documents.

8.2. Contractor shall maintain in a safe place at the Project site one record copy of the Contract Documents, as well as all shop drawings and other Contractor submittals and all written interpretations and clarifications issued by the County, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to County for reference. Upon completion of the Work, and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to County by Contractor for County.

8.3. Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

Section 9. CONTRACT TIME AND TIME EXTENSIONS

9.1. Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.

9.2. Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the

County in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Contractor may have had to request a time extension.

9.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which County may be responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from County. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against County will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

Section 10. CHANGES IN THE WORK

10.1. County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of County is authorized to direct any extra or changed work orally.

10.2. A Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and County concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Contractor shall mutually agree.

10.3. If County and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by County in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by County. If Contractor disagrees with the County's adjustment determination, Contractor must make a claim pursuant to Section 11 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

10.4. In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the

change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.

10.5. County shall have the right to conduct an audit of Contractor's books and records to verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.

10.6. The County shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the Contractor.

Section 11. CLAIMS AND DISPUTES

11.1. A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between County and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.

11.2. Claims by the Contractor shall be made in writing to the County within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the County within fifteen (15) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 10.4.

11.3. The Contractor shall proceed diligently with its performance as directed by the County, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by the County in writing. County shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

Section 12. OTHER WORK

12.1. County may perform other work related to the Project at the site by County's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Contractor. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact to County within forty-eight (48) hours of being notified of the other work. If the Contractor fails to send the above required forty-eight (48) hour notice, the Contractor will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

12.2. Contractor shall afford each utility owner and other contractor (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the County and the others whose work will be affected.

12.3. If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or County), Contractor shall inspect and promptly report to County in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

Section 13. INDEMNIFICATION AND INSURANCE

13.1 Contractor shall pay on behalf of or indemnify and hold harmless County and its agents, officers and employees from and against all liabilities, damages, losses, and costs, including attorney's and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor or resulting from the use by Contractor, or by anyone for whom Contractor is legally liable, of any materials, tools, machinery or other property of County. Contractor's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor, and Contractor shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent

jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Contractor agree one percent (1%) of the Contract Amount paid by County to Contractor shall be given as separate consideration for this indemnification, and any other indemnification of County by Contractor provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Contractor by Contractor's acceptance and execution of the Agreement.

Contractor agrees that such indemnification by Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. Contractor's obligation to indemnify shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

13.2. Contractor shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies or which are registered with the State of Florida. All commercial insurance carriers providing the Contractor

with required insurance shall be a minimum financial size category of VII according to the AM Best Rating Guide, latest edition. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Within ten (10) calendar days after Notice of Award is received by Contractor and prior to the commencement of work, Contractor shall provide County with properly executed Certificates of Insurance to evidence Contractor's compliance with the insurance requirements of the Contract Documents. Said Certificates of Insurance shall be on forms approved by County, such as "Acord Form 25". The Certificates of Insurance shall be personally, manually signed by the authorized representatives of the insurance company/companies shown on the Certificates of Insurance, with proof that they are authorized representatives thereof. Certificates of Insurance shall be mailed to Escambia County in care of: Purchasing Manager, Office of Purchasing, P. O. Box 1591, Pensacola, Florida 32597-1591. In addition, certified, true and exact copies of all insurance policies required hereunder shall be provided to County, on a timely basis, when requested by County.

13.3. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice by registered or certified mail shall be given County of any cancellation, intent not to renew, or reduction in the policies or coverages, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of any policy, Contractor shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.

13.4. All insurance coverages of the Contractor shall be primary to any insurance or self insurance program carried by the County applicable to this Project. The acceptance by County of any Certificate of Insurance does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Contract Documents. No work shall commence at the Project site unless and until the required Certificates of Insurance are received by the County.

13.5. Contractor shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in Exhibit C, unless such insurance requirements for the subcontractor is expressly waived in writing by the County. All liability insurance policies, other than professional liability, worker's compensation and employer's liability policies, obtained by Contractor to meet the requirements of the Contract Documents shall name Escambia County as an additional insured and shall contain severability of interest provisions. Escambia County shall also be designated as certificate holder with the address of P. O. Box 1591, Pensacola, Florida 32597-1591. If any insurance provided pursuant to the Contract Documents expires prior to the completion of the Work, renewal Certificates of Insurance and, if requested by County, certified, true copies of the renewal policies, shall be furnished by Contractor within thirty (30) days prior to the date of expiration. Upon expiration of an insurance policy term during the course of work under the contract, succeeding insurance policies shall be consecutive to the expiring policy.

13.6 All liability policies shall be underwritten on the "occurrence" basis, unless otherwise approved in writing by the County Division of Risk Management. "Claims made" policies, if approved by the Risk Manager, and subsequent insurance certificates shall provide a "retro-date" which shall include the effective date of the contract. "Claims-made" renewals or carrier and policy replacements shall reflect the original "retro-date."

13.7. Should at any time the Contractor not maintain the insurance coverages required herein, the County may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

13.8. Contractor shall submit to County a copy of all accident reports arising out of any personal injuries or property damages arising or alleged to have arisen on account of any work by Contractor or sub-Contractor under the contract documents.

13.9. Duty To Provide Legal Defense. Contractor shall pay for and provide a legal defense for the County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by the County, for all liabilities, damages, losses, and costs as described in paragraph 13.1 above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

Section 14. COMPLIANCE WITH LAWS

14.1. Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify County in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Florida Department of Transportation Manual of Traffic Control and Safe Practices. Failure to adhere to the requirements of the above named laws and regulations regarding safety and traffic control shall be grounds for an immediate work stoppage, either by County staff or the Contractor, until the deficiency is corrected.

14.2 **EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):** In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Section 15. CLEANUP AND PROTECTIONS

15.1. Contractor agrees to keep the Project site clean at all times of debris,

rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by County.

15.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

Section 16. ASSIGNMENT

16.1. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward County.

Section 17. PERMITS, LICENSES AND TAXES

17.1. All permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Contractor. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Contractor to County have been disclosed to Contractor in the bidding documents or other request for proposal at the time the project was let for bid. If Contractor performs any Work without obtaining, or contrary to, such permits or licenses, Contractor shall bear all costs arising therefrom. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.

17.2. Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

Section 18. TERMINATION FOR DEFAULT

18.1. Contractor shall be considered in material default of the Agreement and such default shall be considered cause for County to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the County or as provided for in the

approved Progress Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work; or (5) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; or (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) materially breaches any other provision of the Contract Documents.

18.2. County shall notify Contractor in writing of Contractor's default(s). If County determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then County, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's Work by whatever means, method or agency which County, in its sole discretion, may choose.

18.3. If County deems any of the foregoing remedies necessary, Contractor agrees that it shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) or damages incurred by County incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to County on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the County to complete the Work, such excess shall be paid to the Contractor. The amount to be paid to the Contractor or County, as the case may be, and this obligation for payment shall survive termination of the Agreement.

18.4. The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by County in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefor or re-letting the Work, in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.

18.5. If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that County is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against County shall be the same as and limited to those afforded Contractor below under Subsection 19.1, Termination for Convenience.

18.6 If the Contractor refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement then the County may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven (7) days written notice, during which period Contractor still fails to allow access, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Contractor, and may finish the project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Contractor (excluding monies owed the Contractor for subcontract work).

Section 19. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION

19.1. County shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against County shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against County, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.

19.2. County shall have the right to suspend all or any portions of the Work upon giving Contractor two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds three (3) months, the Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

Section 20. COMPLETION

20.1. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the County shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a final Certificate for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor is due and payable. The final payment shall not become due and payable until Contractor submits: (1) the Release and Affidavit in the form attached as Exhibit D, (2) consent of surety to final payment, (3) if required by County, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County, and (4) a published copy of the Notice of Completion as provided for in this section. County reserves the right to inspect the Work and make an independent determination as to the Work's acceptability. Unless and until the County is completely satisfied, the final payment shall not become due and payable.

20.2 After the Work is ready for final inspection and acceptance by the County, a legal advertisement must be published by the Contractor in a local newspaper of a general countywide circulation at least thirty (30) days before final payment shall be made. Example of such publication is as follows:

Legal Notice of Completion

Notice is hereby given that the undersigned Contractor has completed and has ready for acceptance by the Board of County Commissioners of Escambia County, Florida, the following construction project:

(Project Name and Address)

(Legal Name and Address - entity of the Contractor)

Subcontractors, materialmen, and other persons having payment claims against the Contractor relating to this project should govern themselves accordingly.

Section 21. WARRANTY

21.1. Contractor shall obtain and assign to County all express warranties given to Contractor or any subcontractors by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within ____ () year(s) after final completion, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from County. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which County is entitled as a matter of law.

Section 22. TESTS AND INSPECTIONS

22.1. County, its respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their

observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide County with timely notice of readiness of the Work for all required inspections, tests or approvals.

22.2. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefor, pay all costs in connection therewith and furnish County the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the County.

22.3. If any Work that is to be inspected, tested or approved is covered without written concurrence from the County, such work must, if requested by County, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given County timely notice of Contractor's intention to cover the same and County has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from County, such Work must, if requested by County, be uncovered for County's observation and be replaced at Contractor's sole expense.

22.4. The County shall charge to Contractor and may deduct from any payments due Contractor all engineering and inspection expenses incurred by County in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

22.5. Neither observations by the County nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

Section 23. DEFECTIVE WORK

23.1. Work not conforming to the requirements of the construction plans or Contract Documents shall be deemed defective Work. If required by County, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by County, remove it from the site and replace it with undefective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold County harmless for same.

23.2. If the County considers it necessary or advisable that covered Work be observed by County or inspected or tested by others, Contractor, at County's request, shall uncover, expose or otherwise make available for observation, inspection or tests as County may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all

direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and County shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

23.3. If any portion of the Work is defective, or Contractor fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, County may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County to stop the Work shall not give rise to any duty on the part of County to exercise this right for the benefit of Contractor or any other party.

23.4. Should the County determine, at its sole opinion, it is in the County's best interest to accept defective Work, the County may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the County's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the County accepts such defective Work after final payment, Contractor shall promptly pay County an appropriate amount to adequately compensate County for its acceptance of the defective Work.

23.5. If Contractor fails, within a reasonable time after the written notice from County, to correct defective Work or to remove and replace rejected defective Work as required by County, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, County may, after seven (7) days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable County to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of County in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or

damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

Section 24. SUPERVISION AND SUPERINTENDENTS

24.1. Contractor shall supervise 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 responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to County except under extraordinary circumstances. The superintendent shall be Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. County shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

Section 25. PROTECTION OF WORK

25.1. Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor, or any one for whom Contractor is legally liable, is responsible for any loss or damage to the Work, or other work or materials of County or County's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

25.2. 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 property to stresses or pressures that will endanger it.

Section 26. EMERGENCIES

26.1. In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from County is obligated to act to prevent threatened damage, injury or loss. Contractor shall give County written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the County determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

Section 27. USE OF PREMISES

27.1. Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

Section 28. SAFETY

28.1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

28.1.1. All employees of the Work and other persons and/or organizations who may be affected thereby;

28.1.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and

28.1.3. Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.

28.2. The Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by County has occurred.

28.3. The Contractor shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by the Contractor to the County.

28.4. The Contractor shall adhere at all times to the minimum safety guidelines for

construction and renovation projects as set out in Exhibit C of this Agreement.

Section 29. PROJECT MEETINGS

Prior to the commencement of Work, the Contractor shall attend a preconstruction conference with the County to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the County with respect to the Project, when directed to do so by County. Contractor shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by the County.

EXHIBIT B
PERFORMANCE AND PAYMENT BOND

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

_____ (Insert name, address, and phone number of contractor), as Principal, and

_____, (Insert full name, home office address and phone number of surety) as Surety, are held and firmly bound unto the Board of County Commissioners for Escambia County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, as Obligee in the sum of

_____ Dollars (\$_____), for the payment whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Principal has entered into a contract dated as of the _____ day of _____, 20____, with Obligee for Contract No. _____,

(Insert name of project, including legal description, street address of property and general description of improvement) in accordance with drawings and specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract; and
3. Performs the guarantee of all work and materials furnished under the Contract applicable to the work and materials, then this bond is void; otherwise it remains in full force; and
4. Principal understands and agrees that this bond shall remain in full force and effect throughout the two (2) year warranty period after substantial completion of the work.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond.

In no event will the Surety be liable in the aggregate to Obligor for more than the penalty sum of this Performance Bond, regardless of the number of suits that may be filed by Obligor.

IN WITNESS WHEREOF, the above parties have executed this instrument this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these premises duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____
Name: _____
Its: _____

Witnesses as to Principal

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)
Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

ATTEST:

Witness

Witness

Witnesses

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by _____ as Surety, on behalf of Surety. He/she is personally known to me OR has produced _____ as identification and did (did not) take an oath.
My Commission Expires: _____

(AFFIX OFFICIAL SEAL)

SURETY: _____
(Printed Name)

(Business Address)

(Authorized Signature)

(Printed Name)
OR

As Attorney In Fact (Attach Power)

(Business Address)

(Printed Name)

(Telephone Number)

(Signature)

Name: _____

(Legibly Printed)

Notary Public, State of _____

Serial No., If Any: _____

BOND NO. _____

PAYMENT BOND

BY THIS BOND, We, _____
(Insert name, address and phone number of contractor)
_____ (hereinafter called the "Principal")
and _____ (hereinafter called the "Surety"),
(Insert name)
located at _____, a surety insurer
(Insert address and phone number)
chartered and existing under the laws of the State of _____ and authorized to do business
in the State of Florida, are held and firmly bound unto the Board of County Commissioners for Escambia
County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, (hereinafter called
the "County") in the sum of _____ (\$ _____) for
payment of which we bind ourselves, our heirs, our personal representatives, our successors and our
assignees, jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement relating to Contract
No. _____

(hereinafter referred to as the "Contract") as of _____ (the bid award date for projects
thereto)

for _____ the _____ purpose _____ of

(Insert name of project, including legal description, street address of property and general description of
improvement.)

said Contract being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Performs the contract dated _____, _____, between Principal and County for
construction of _____, the contract being made a part of this bond by
reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida
Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly
by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including

appellate proceedings, that the County sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

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.

BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the County of any extension of time for the performance of the said Contract, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to Section 255.05, Florida Statutes.

THIS BOND DATED THE _____ DAY OF _____, 20____ (the date of issue by the Surety or by the Surety's agent and the date of such agents power-of-attorney).

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____

COUNTY OF _____

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

_____, a _____ corporation, on behalf of the corporation.
He/she is personally known to me **OR** has produced _____ as identification and did
(did not) take an oath.

My Commission Expires: _____

(AFFIX OFFICIAL SEAL)

ATTEST:

Witness

Witness

Witnesses

STATE OF _____

COUNTY OF _____

(Signature)

Name: _____

(Legibly Printed)

Notary Public, State of _____

Serial No., If Any: _____

SURETY: _____

(Printed Name)

(Business Address)

(Authorized Signature)

(Printed Name)

OR

As Attorney In Fact (Attach Power)

(Business Address)

(Printed Name)

(Telephone Number)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____ as Surety, on behalf of Surety. He/she is personally known to me OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT C
INSURANCE AND SAFETY

INSURANCE - BASIC COVERAGES REQUIRED

The Contractor shall procure and maintain the following described insurance, except for coverages specifically waived by the County. Such policies shall be from insurers with a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Such policies shall provide coverages for any or all claims which may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of the Contract Documents, whether such services, work and operations be by the Contractor, its employees, or by subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

The Contractor shall require, and shall be responsible for assuring throughout the time the Agreement is in effect, that any and all of its subcontractors obtain and maintain until the completion of that subcontractor=s work, such of the insurance coverages described herein as are required by law to be provided on behalf of their employees and others.

The required insurance shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

These insurance requirements shall not limit the liability of the Contractor. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor=s interests or liabilities, but are merely minimums.

Except for workers compensation and professional liability, the Contractor=s insurance policies shall be endorsed to name Escambia County as an additional insured to the extent of its interests arising from this agreement, contract or lease.

The Contractor waives its right of recovery against the County, to the extent permitted by its insurance policies.

The Contractor=s deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Contractor is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Contractor or any other insurance of the Contractor shall be considered primary, and insurance of the County, if any, shall be considered excess, as may be applicable to claims obligations which arise out of this agreement, contract or lease.

Workers Compensation Coverage

The Contractor shall purchase and maintain workers compensation insurance for all

workers compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease, or a valid certificate of exemption issued by the state of Florida, or an affidavit in accordance with the provisions of Florida Workers Compensation law.

Contractor shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile And Excess Or Umbrella Liability Coverage

The Contractor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage coverages, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Contractor is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, nonowned and hired automobiles and employee nonownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages. Umbrella coverage shall drop down to provide coverage where the underlying limits are exhausted.

Evidence/Certificates of Insurance

Required insurance shall be documented in Certificates of Insurance. If and when required by the County, Certificates of Insurance shall be accompanied by documentation

that is acceptable to the County establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of each insurance company underwriting the insurance coverages(s) indicated on each Certificate of Insurance.

New Certificates of Insurance are to be provided to the County at least 30 days prior to coverage renewals. Failure of the Contractor to provide the County with such renewal certificates may be considered justification for the County to terminate this agreement, contract or lease.

Certificates should contain the following additional information.

1. Indicate that Escambia County is an additional insured on the general liability policy.
2. Include a reference to the project and the Office of Purchasing number.
3. Disclose any self-insured retentions in excess of \$1,000.
4. Designate Escambia County as the certificate holder as follows:
Escambia County
Attention: _____
Office of Purchasing
P.O. Box 1591
Pensacola, FL 32597-1591
Fax (850) 595-4805
5. Indicate that the County shall be notified at least 30 days in advance of cancellation.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein.

If requested by the County, the Contractor shall furnish complete copies of the Contractor's insurance policies, forms and endorsements, and/or such additional information with respect to its insurance as may be requested.

For Commercial General Liability coverage the Contractor shall, at the option of the County, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

ENDORSEMENTS/ADDITIONAL INSURANCE

If checked below, the County requires the following endorsements or additional types of insurance.

— **TERMINATION/ADVERSE CHANGE ENDORSEMENT**

All of Contractor's policies, except for professional liability and workers compensation insurance, are to be endorsed, and the Contractor's Certificate(s) of Insurance shall state, that the County shall be notified at least 30 days in advance of cancellation, nonrenewal or adverse change.

— **PROPERTY COVERAGE FOR LEASES**

The Contractor shall procure and maintain for the life of the lease, all risk/special perils (including sinkhole) property insurance (or its equivalent) to cover loss resulting from damage to or destruction of the building and personal property/contents. The policy shall cover 100% replacement cost, and shall include an agreed value endorsement to waive coinsurance.

Coverage shall also include continued full payment of rents to the County for up to one year after damage or destruction of the property

— **COMMERCIAL GENERAL LIABILITY COVERAGE PROJECT AGGREGATE**

Because the Commercial General Liability form of coverage includes an annual aggregate limitation on the amount of insurance provided, a separate project aggregate limit of \$_____ is required by the County for this agreement or contract.

— **LIQUOR LIABILITY**

In anticipation of alcohol being served, the Contractor shall provide evidence of coverage for liquor liability in an amount equal to the general/umbrella/excess liability coverage. If the general liability insurance covers liquor liability (e.g. host or other coverage), the Contractor's agent or insurer should provide written documentation to confirm that coverage already applies to this agreement, contract or lease. If needed coverage is not included in the general/umbrella/excess liability policy(ies), the policy(ies) must be endorsed to extend coverage for liquor liability, or a separate policy must be purchased to provide liquor liability coverage in the amount required.

— **OWNERS PROTECTIVE LIABILITY COVERAGE**

For renovation or construction contracts the Contractor shall provide for the County an owners protective liability insurance policy (preferably through the Contractor=s insurer) in the name of the County.

This is redundant coverage if the County is named as an additional insured in the

Contractor=s Commercial General Liability insurance policy. However, this separate policy may be the only source of coverage if the Contractor=s liability coverage limit is used up by other claims.

BUILDERS RISK COVERAGE

Builders Risk insurance is to be purchased to cover subject property for all risks of loss, subject to a waiver of coinsurance, and covering off-site storage, transit and installation risks as indicated in the Installation Floater and Motor Truck Cargo insurance described hereafter, if such coverages are not separately provided.

The Builders Risk insurance is to be endorsed to cover the interests of all parties, including the County and all contractors and subcontractors. The insurance is to be endorsed to grant permission to occupy.

INSTALLATION FLOATER COVERAGE

Installation Floater insurance is to be purchased when Builder=s Risk insurance is inappropriate, or when Builder=s Risk insurance will not respond, to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The amount of coverage should be adequate to provide full replacement value of the property, repairs, additions or equipment being installed, otherwise being handled or stored on or off premises. All risks coverage is preferred.

MOTOR TRUCK CARGO COVERAGE

If the Installation Floater insurance does not provide transportation coverage, separate Motor Truck Cargo or Transportation insurance is to be provided for materials or equipment transported in the Contractor=s or other vehicles from place of receipt to building sites or other storage sites. All risks coverage is preferred.

CONTRACTOR'S EQUIPMENT COVERAGE

Contractor's Equipment insurance is to be purchased to cover loss of equipment and machinery utilized in the performance of work by the Contractor. All risks coverage is preferred.

FIDELITY/DISHONESTY COVERAGE - FOR EMPLOYER

Fidelity/Dishonesty insurance is to be purchased to cover dishonest acts of the Contractor's employees, including but not limited to theft of vehicles, materials, supplies, equipment, tools, etc., especially property necessary to work performed.

FIDELITY/DISHONESTY/LIABILITY COVERAGE - FOR COUNTY

Fidelity/Dishonesty/Liability insurance is to be purchased or extended to cover dishonest acts of the Contractor's employees resulting in loss to the County.

GARAGE LIABILITY COVERAGE

Garage Liability insurance is to be purchased to cover the Other Party and its employees for its garage and related operations while in the care, custody and control of the County's vehicles.

GARAGEKEEPERS COVERAGE (LEGAL LIABILITY FORM)

Garagekeepers Liability insurance is to be purchased to cover the Other Party's liability for damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds only when the Other Party is legally liable for the loss.

GARAGEKEEPERS COVERAGE (DIRECT-EXCESS FORM)

Garagekeepers Liability insurance is to be purchased to cover damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds on a legal liability basis, and also without regard to legal liability on an excess basis over any other collectible insurance.

WATERCRAFT LIABILITY COVERAGE

Because the Contractor's provision of services involves utilization of watercraft, watercraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any watercraft, including owned, nonowned and hired.

Coverage may be provided in the form of an endorsement to the general liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity.

UNITED STATES LONGSHOREMEN AND HARBORWORKERS ACT COVERAGE

The Workers Compensation policy is to be endorsed to include United States Longshoremen and Harborworkers Act Coverage for exposures which may arise from this agreement or contract.

JONES ACT COVERAGE

The Workers Compensation policy is to be endorsed to include Jones Act Coverage for exposures, which may arise from this agreement or contract.

AIRCRAFT LIABILITY COVERAGE

Because the Contractor's provision of services involves utilization of aircraft, aircraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any aircraft, including owned, nonowned and hired.

The minimum limits of coverage shall be \$___,000,000 per occurrence, Combined Single Limit for Bodily Injury (including passenger liability) and Property Damage.

POLLUTION/ENVIRONMENTAL IMPAIRMENT LIABILITY COVERAGE

Pollution/environmental impairment liability insurance is to be purchased to cover pollution and/or environmental impairment which may arise from this agreement or contract.

PROFESSIONAL LIABILITY/MALPRACTICE/ERRORS OR OMISSIONS INSURANCE

The Contractor shall purchase and maintain Professional Liability or malpractice or errors or omissions insurance coverage with a minimum limit of \$1,000,000, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

MINIMUM PROJECT SAFETY REQUIREMENTS

The following safety requirements represent the minimum conditions which shall be met by all Contractors and subcontractors performing work for Escambia County. The Contractor shall be responsible to ensure his compliance with all State and Federal safety regulations as specified in County contract documents. Reported or observed violations of OSHA (29 CFR 1910 or 1926) and other regulations shall be brought to the attention of the County project manager and County Safety Office and shall be immediately corrected by the Contractor. Failure to comply with required safety procedures shall result in the suspension of the Work of the Contractor until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Contractor may be referred by the County to either the project insurance coordinator or the Department of Labor and Employment Security, Division of Safety, for inspection or interpretation. The Contractor shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

- (1) Prior to the commencement of the project, the Contractor and all subcontractors shall provide to the County a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.
- (2) The Contractor shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including County and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Contractor representative or by the project manager or designee.
- (3) The Contractor shall provide all necessary safety equipment for County staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Contractor or required by State or Federal safety regulations.
- (4) Construction vehicles on the work site shall always be operated in a safe manner. The Contractor shall take appropriate action to ensure the safety of County staff, visitors, and the general public while operating work vehicles at a controlled construction site. Where conditions warrant, or at the request of the County, temporary barriers shall also be established for these traffic areas.
- (5) The Contractor shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to County staff, visitors, or the general public. At a

minimum, the project site shall be posted with the

appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: **ATHIS AREA IS A DESIGNATED CONSTRUCTION SITE; ANYONE TRESPASSING ON THIS PROPERTY SHALL, UPON CONVICTION, BE GUILTY OF A FELONY; DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY**, and other general safety warning signs, i.e., "HARD HAT AREA", as are deemed necessary by the Contractor and project manager.

- (6) In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the County safety Office. Alternative measures may include, but are not limited to, working during "off" hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the County).
- (7) The Contractor shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the County Safety Office and the appropriate life safety code inspector), shall the life safety code components of an occupied facility be reduced or otherwise compromised. A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Contractor shall communicate with each subcontractor as to scheduling of events that may pose hazards or inconveniences to building occupants. The Contractor shall also ensure that appropriate scheduling information is also conveyed to the project manager.
- (8) Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Contractor to adhere to the following guidelines at a minimum:
 - (a) The Contractor shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The Contractor shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the County Safety Office. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.
 - (b) Material Safety Data Sheets (MSDS) shall be provided for all hazardous substances used on the project or brought on the job site. These products

include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.

- (c) Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Contractor shall also determine whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Contractor.
 - (d) The Contractor should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.
- (9) The Contractor shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing County 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.
 - (10) The Contractor agrees and understands that all County construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or County regulatory agencies.
 - (11) The Contractor shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Contractor shall ensure that these containers are subsequently emptied on a regular basis.
 - (12) Water runoff and soil erosion from the project site shall be controlled by the Contractor pursuant to the regulations of the Florida Department of Environmental Protection.
 - (13) Water-based paint and stain products shall be used by the Contractor in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior approval from the project manager or

County Safety Office shall be obtained before their use.

- (14) The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior approval for use of these metals shall be obtained by the Contractor from the project manager.
- (15) The use of any radioactive materials by the Contractor on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Contractor to the project manager and County Safety Office for review.
- (16) The County maintains programs for the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement contractors. General contractors, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Contractors who encounter such materials shall immediately stop work and notify the project manager or the County Safety Office.
- (17) The above-cited guidelines represent minimum expectations and actions which shall be taken by Contractors while under contract for County construction and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager or County Safety Office.

EXHIBIT D
RELEASE AND AFFIDAVIT

COUNTY OF ESCAMBIA)
)
STATE OF FLORIDA)

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Contractor") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Board of County Commissioners of Escambia County, Florida, ("County") relating in any way to the performance of the Agreement between Contractor and County dated _____, 20____, for the period from _____ to _____.

(2) Contractor certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Contractor agrees to indemnify, defend and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against the County arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with Contractor's (monthly/final) Application for Payment No. _____.

CONTRACTOR:

Witnesses

By: _____
Its: President
Date: _____

[Corporate Seal]

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

EXHIBIT E

FORM OF CONTRACT APPLICATION FOR PAYMENT

- AIA DOCUMENT #G702, 1992 EDITION
- AIA DOCUMENT #G703, 1992 EDITION

SAMPLE

EXHIBIT F

CHANGE ORDER

CHANGE ORDER NO. _____

CONTRACT NO. _____

TO: _____

DATE: _____

PROJECT NAME _____

PROJECT NO. _____

Under our AGREEMENT dated _____, 20____.

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement:

FOR THE (Additive) (Deductive) Sum of:
_____ (\$ _____).

Original Agreement Amount \$ _____

Sum of Previous Changes \$ _____

This Change Order (Add) (Deduct) \$ _____

Present Agreement Amount \$ _____

The time for completion shall be (increased/decreased) by _____ (____) calendar days due to this Change Order. Accordingly, the Contract Time is now _____ (____) calendar days and the final completion date is _____

_____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

The Contract Administrator has directed the Contractor to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or greater value Change Order.

☐ Check if applicable and provide written confirmation from the bonding company/agent (attorney-in-fact) that the amount of the Performance and Payment bonds have been adjusted to 100% of the new contract amount.

Accepted: _____, 20____

By: _____
Contractor

By: _____
Architect/Engineer

By: _____
Owner

**STANDARD DESIGN-BUILD CONTRACT
DOCUMENTS**

FOR

**AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF
ESCAMBIA COUNTY, FLORIDA**

AND

FORM C: DESIGN-BUILD

(Revised 2013)

STANDARD CONSTRUCTION CONTRACT DOCUMENTS
FORM C

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AGREEMENT

THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, ("County") a subdivision of the State of Florida with administrative offices at 221 South Palafox Place, Pensacola, Florida 32502, hereby contracts with _____ ("Design-Build Firm"), a _____ corporation for profit with an address of _____ and Federal Tax Identification Number of _____, to perform all work ("Work") in connection with _____, P.D. ____-____ ("Project"), as said Work is set forth in the Plans and Specifications furnished by the Design-Build Firm and other Contract Documents hereafter specified.

SECTION 1. CONTRACT DOCUMENTS.

A. The Contract Documents consist of this Agreement, the Amendments and Exhibits described in Section 7 hereof, Change Orders, Work Directive Changes, Field Orders, and the solicitation documents, including addenda relating thereto. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents, including this Agreement, sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Design-Build Firm at the Project site at all times during the performance of the Work.

B. In case of any inconsistency or conflict among the provisions of the Agreement and any other terms and conditions of any documents comprising the Contract Documents, the provisions of the Agreement shall control. Concerning the Contract Documents, the order of precedence shall be as follows: 1) the Agreement, including Amendments and Exhibits; 2) Change Orders; 3) Work Directive Changes; 4) Field Orders; 5) the Solicitation Documents, including addenda. The Contract Documents listed above represent the entire and integrated agreement between the parties hereto, and supersede prior negotiations, representations, or agreements, either written or oral.

C. County shall furnish to the Design-Build Firm up to three (3) sets of the Contract Documents for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

SECTION 2. SCOPE OF WORK.

A. Generally, Design-Build Firm will provide all planning, design, and architectural/engineering services required for the proper design and for all other services necessary for the construction of the Project,

B. Design-Build Firm's Responsibility with respect to Design

1) In fulfilling its obligations under this Section, Design-Build Firm shall employ Architects and Engineers of the appropriate specialties for proper preparation of the Project drawings and specifications, including structural, mechanical, electrical, soils (excepting existing environmental contamination and based upon soil boring reports furnished to Design-Build Firm by County), civil and such other specialties as are reasonably required. All such professional services shall be performed by appropriately State of Florida licensed personnel. Design-Build Firm takes responsibility for the proper performance of such architectural and engineering services.

2) The Design-Build Firm shall prepare and the County shall approve a Pre-Construction Phase schedule as follows:

(a) PHASE 1 - SCHEMATIC DESIGN PHASE

Based upon the County's Project requirements, as set forth in the Design Criteria Package prepared by the County Architect, and set forth in Exhibit I, Schematic Design Studies will be prepared by the Design-Build Firm. These Schematics are for the purpose of assisting the County in determining the feasibility of the Project.

(b) PHASE 2 - DESIGN DEVELOPMENT

Upon approval of Schematic Designs and authorization from the County to proceed, the Design-Build Firm shall prepare Design Development documents to fix the size and character of the Project as to structural, mechanical and electrical systems, materials, and other appropriate essential items in the Project. These Development Documents shall be the basis for the design and construction of the Project. Approved Development Documents shall be incorporated in Exhibit K.

(c) PHASE 3 - WORKING DRAWINGS AND SPECIFICATIONS

From approved Design Development Documents, the Design-Build Firm will prepare working Drawings and Specifications setting forth in detail the requirements for the construction of the Project, and based upon codes, laws, or regulations which have been enacted at the time of their preparation.

3) The Design-Build Firm and the County will work closely together to monitor the design in accordance with prior approvals so as to ensure that the Project can be constructed within the amount as defined in Section 3. As these working Drawings and Specifications are being completed, the Design-Build Firm will keep the County advised of the effects of any County requested changes on the Contract Time Schedule and/or the Guaranteed Maximum Price ("GMP"). Construction of the Project shall be in accordance with these Drawings and Specifications as approved by the County and incorporated in the exhibits. The Drawings and Specifications shall remain the property of the County and may be used by the County on this or other projects without the written

consent of the Design-Build Firm.

4) After the completion of any Pre-Construction Phase as set forth above in Subsection 2. B., paragraphs 2) (a), (b), and (c), if the Project is no longer feasible for any reason from the standpoint of the County, the County may terminate this Agreement and pay the Design-Build Firm pursuant to Section 3 "Contract Amount".

C. Responsibilities of Design-Build Firm With Respect to Construction.

1) The Design-Build Firm will provide all construction supervision, inspection, labor, materials, tools, construction equipment, and subcontracted items of every kind and type necessary for the timely execution and full completion of the Project in a good workmanlike manner required by the Contract.

2) The Design-Build Firm will pay all sales, use, gross receipts and similar taxes related to the Work provided by the Design-Build Firm, which have been legally enacted at the time of execution of this Agreement and for which the Design-Build Firm is liable.

3) The Design-Build Firm will prepare and submit for the County's approval an estimated progress schedule for the Project. This schedule shall indicate the dates for the starting and completion of the various stages of the construction. It shall be revised as required by the conditions of the Work and by those conditions and events, which are beyond the Design-Build Firm's control. (Exhibit O)

4) The Design-Build Firm shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. The system shall be satisfactory to the County, which shall be afforded access to all of the Design-Build Firm's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. The Design-Build Firm shall preserve all such records for a period of three (3) years after the final payment or longer where required by law. All such records shall be subject to public disclosure under Chapter 119, Florida Statutes, the Florida Public Records Law. Failure to disclose such documents shall result in the termination of this Agreement by the County.

D. Royalties and Patents.

1) The Design-Build Firm shall pay all royalties and license fees for materials, methods, and systems incorporated in the Work. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof except when a particular design process or product is specified by the County. In such case the Design-Build Firm shall be responsible for such loss only if it has reason to believe that the design, process, or product so specified is an infringement of a patent, and fails to give such information promptly to the County.

E. Warranties and Completion.

In addition to the warranty set forth in Section 20, General Conditions:

- 1) The Design-Build Firm will secure required certificates of inspection, testing, or approval and deliver them to the County.
- 2) The Design-Build Firm will collect all written warranties and equipment manuals and deliver them to the County.
- 3) The Design-Build Firm, with the assistance of the County's maintenance personnel, will direct the commissioning of utilities and the operations of the Project's systems and equipment, and will assist in their initial start-up and testing.

SECTION 3. CONTRACT AMOUNT.

In consideration of the faithful performance by Design-Build Firm of the covenants in this Agreement to the full satisfaction and acceptance of County, County agrees to pay, or cause to be paid, to Design-Build Firm in accordance with the terms of this Agreement the following Guaranteed Maximum Price (GMP) amount for the Project (herein "Contract Amount"): \$ _____.

SECTION 4. DESIGN-BUILD FIRM FEES

A. Pre-Construction Phases Fee. For the performance of the design services set forth herein and for profit and overhead related to these services, a total fee of \$ _____ shall be paid to the Design-Build Firm. The Pre-construction Phase Fee for the Project shall be paid in monthly payments of \$ _____ each. The first monthly payment shall become due thirty (30) days following the issuance by the County of the Notice To Proceed with the design services for the Project and monthly thereafter based on the project schedule and approval by County of deliverables as set forth in Exhibit M. (Design Fee proposal) and Exhibit J. (Schedule of Project Fees)

The Design-Build Firm's design personnel to be assigned during the Pre-Construction Phases of the Work and their duties, responsibilities, and fee schedule, and the duration of their assignments are shown on Exhibit N, which is incorporated by reference herein. Such personnel shall not be replaced without the prior written consent of the County which shall not unreasonably withhold such consent.

B. Construction Phase Fee. Prior to commencement of the Construction Phase of the Project, the County will direct the Design-Build Firm in writing to proceed with that Construction Phase. The Design-Build Firm's compensation for services performed during the Construction Phase shall be a total fee of \$ _____ (However, the County retains the right to review the need and effectiveness of any employee or employees assigned by the Design-Build Firm, should the County question the need for the employee or employees). The Construction Phase Fee shall be paid in monthly

payments of \$_____ each and one final monthly payment of \$_____ at the conclusion of the Project. The first monthly payment shall become due thirty (30) days following the issuance of the Construction Phase Notice to Proceed by the County and the final monthly payment shall be paid only when construction of the Project is finally completed and occupancy of is accepted by the County. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the County. The construction phase fee shall be negotiated based on the Design and the negotiated fee and supporting documentation shall be incorporated in Exhibit J (Schedule of Project Fees)

Design-Build Firm's Exclusive Remedy: In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the County, or is attributable to the County, the Design-Build Firm's sole and exclusive remedy is an extension of the construction completion date.

C. Overhead And Profit For the Construction Phase. For overhead, profit, and general expenses of any kind for services provided during and related to the Construction Phase of the Project, the fee shall be \$_____, and shall be paid proportionally to the ratio of the cost of the Work in place, and less retainage as it bears on the latest estimate of the total construction cost or to the GMP or to the County's Construction Budget, whichever is less. The balance of the fee shall be paid when construction of the Project is finally completed and occupancy of the Project accepted by the County as provided in this Agreement. If construction is authorized only for a part of a phase of the Project, the fee paid shall be proportionate to the amount of Work authorized by the County. The Overhead and Profit for the Construction Phase shall be negotiated based on the design and set forth in Exhibit J (Schedule of Project Fees).

SECTION 5. BONDS

A. Design-Build Firm shall provide Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of one hundred percent (100%) of the Contract Amount, the costs of which to be paid by Design-Build Firm. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to County; provided; however, the surety shall be rated as "A-" (excellent) or better and Class "V" or higher rating as to financial size category and the amount required shall not exceed two percent (2%) of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.

B. If the surety for any bond furnished by Design-Build Firm is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Document, the Design-Build Firm shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval. Failure by the Design-Build Firm to maintain its bonds in full force and effect at all times, including the warranty period, shall be grounds for termination of this Contract.

C. Per §255.05, Florida Statutes, the Design-Build Firm shall be required to execute and record the Performance and Payment bonds. The bonds must state the name and principal business address of both the Principal and the Surety and a description of the Project sufficient to identify it. (The filing costs are ten dollars (\$10.00) for the first page and eight dollars and fifty cents (\$8.50) for each remaining page).

SECTION 6. CONTRACT TIME AND LIQUIDATED DAMAGES

A. Time is of the essence in the performance of the Work under this Agreement.

Design-Build Firm shall commence the Work within ten (10) calendar days from the Commencement Date, established in each Phase's Notice to Proceed. No Work shall be performed at the Project site prior to such Commencement Dates. Design-Build Firm shall provide forty-eight (48) hours notice prior to beginning the Work. The Work shall be substantially completed within _____ () calendar days from the Commencement Date. The Work shall be fully completed and deemed ready by the County for final completion within _____ () calendar days from the Substantial Completion Date. The Contract Time shall be the time period from the Commencement Date to the date of final completion totaling _____ () calendar days (herein "Contract Time").

B. County and Design-Build Firm recognize that, since time is of the essence for this Agreement, the County will suffer financial loss if the Work is not substantially completed within the time specified. Should Design-Build Firm fail to substantially complete the Work within the time period noted above, County shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until Substantial Completion is achieved. The Project shall be deemed to be substantially completed by the County on the date that the County's Architect certifies in writing that the construction of the Project, or specified part thereof, is sufficiently completed in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended. Along with such certification, the Architect shall compile a "punch list" of any remaining exceptions that do not adversely affect the use of the Project. Completion of these items will be required prior to final payment as provided herein.

C. Design-Build Firm hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the County's actual damages at the time of contracting if Design-Build Firm fails to substantially complete the Work in accordance with the progress schedule.

D. When any period of time is referenced to by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal

holiday.

SECTION 7. EXHIBITS INCORPORATED

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Exhibit A:	General Terms and Conditions
Exhibit B:	Form of Performance and Payment Bonds
Exhibit C:	Insurance Requirements
Exhibit D:	Form of Release and Affidavit
Exhibit E:	Form of Application for Payment
Exhibit F:	Form of Change Order
Exhibit G:	Owner Direct Purchases- FORM OF0205 (if applicable)
Exhibit H:	Contract Definitions
Exhibit I:	Design Criteria Package
Exhibit J:	Schedule of Project Fees
Exhibit K:	Approved schematic Designs/Development Documents
Exhibit L:	Approved GMP Construction Drawings and Specifications
Exhibit M:	Pre-Construction Fee proposal
Exhibit N:	Design-Build Firm Project Personnel Roster
Exhibit O:	Project Schedule
Exhibit P:	GMP Amount Detail
Exhibit Q:	Information Package
Exhibit R:	If Required

SECTION 8. NOTICES

A. All notices required or made pursuant to this Agreement by the Design-Build Firm to the County shall be in writing and delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Attention: _____

B. All notices required or made pursuant to this Agreement by County to Design-Build Firm shall be made in writing and shall be delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Attention: _____

C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

SECTION 9. MODIFICATION

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

SECTION 10. SUCCESSORS AND ASSIGNS

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

SECTION 11. GOVERNING LAW

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida, and the Parties stipulate venue for matters relating to the subject of this Agreement shall be in the County of Escambia.

SECTION 12. NO WAIVER

The failure of the County to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

SECTION 13. ENTIRE AGREEMENT

Each of the Parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

SECTION 14. SEVERABILITY

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) indicated below.

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: _____
County Administrator

WITNESS: _____

Date: _____

WITNESS: _____

BCC Approved: _____

DESIGN-BUILD FIRM:

By: _____
(Name)

ATTEST: Corporate Secretary

By: _____
Secretary

Its: President

[CORPORATE SEAL]

Date: _____

EXHIBIT "A"

GENERAL TERMS AND CONDITIONS

1. INTENT OF CONTRACT DOCUMENTS

1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein.

1.2. If during the performance of the Work Design-Build Firm discovers a conflict, error or discrepancy in the Contract Documents, Design-Build Firm immediately shall report same to the County in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the Design-Build Firm's Architect/Engineer. Design-Build Firm shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Design-Build Firm with the Contract Documents before commencing any portion of the Work.

1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Design-Build Firm shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Design-Build Firm, as determined by its Architect/Engineer. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

2. INVESTIGATION AND UTILITIES

2.1 Design-Build Firm shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quality of the surface materials to be encountered; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Design-Build Firm to acquaint itself with any applicable conditions shall not relieve Design-Build Firm from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

2.2. Design-Build Firm shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Design-Build Firm shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Design-Build Firm shall schedule and coordinate its Work around any such relocation or temporary service interruption. Design-Build Firm shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

3. PROGRESS PAYMENTS FOR CONSTRUCTION PHASE

3.1. Prior to submitting its first Application for Payment, Design-Build Firm shall submit to County, for its review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the County, this schedule of values shall be used as the basis for the Design-Build Firm's Applications for Payment. This schedule shall be updated and submitted along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.

3.2. Prior to submitting its first Monthly Application for Payment, Design-Build Firm shall submit to County a complete list of all its proposed subcontractors and materialmen, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after Commencement Date of construction.

3.3. If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the County in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that upon payment by County, the County shall receive the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to the County's prior written approval.

3.4. Design-Build Firm shall submit three (3) copies of each of its Applications for Payment to the County on or before the 25th day of each month for work performed during the previous month. Invoices received after the 25th day of each month shall be considered for payment as part of the next month's application. Within ten (10) calendar days after receipt of each Application for Payment, the County shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Design-Build Firm indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial of the Application for Payment, the Design-Build Firm may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused, in whole or in part, the Design-Build Firm may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Design-Build Firm.

If the administrative decision is disputed, the Design-Build Firm may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Design-Build Firm will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within twenty (20) business days after County approval of an Application for Payment, pay the Design-Build Firm the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved by the County.

3.5. Except for applications for payment for work performed pursuant to Section 2.A. of the Agreement, relating to the Design Phase, County shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the County for payment, whichever is less, up to fifty percent

(50%) completion. Thereafter, if on schedule, the County shall retain five percent (5%) of the gross amount of each payment request. Such sum shall be accumulated and not released to Design-Build Firm until final payment is due. Any interim interest on such sums shall accrue to County.

3.6. Monthly payments to Design-Build Firm shall in no way imply approval or acceptance of Design-Build Firm's work.

3.7. Each Application for Payment shall be accompanied by Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested or have been paid in full. The County shall not be required to make payment until and unless these affidavits are furnished by Design-Build Firm.

4. PAYMENTS WITHHELD

4.1. The County may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The County may nullify the whole or any part of any approval for payment previously issued and County may withhold any payments otherwise due Design-Build Firm under this Agreement or any other agreement between County and Design-Build Firm, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Design-Build Firm to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Design-Build Firm; or (g) any other material breach of the Contract Documents. If these conditions are not remedied or removed, County may, after three (3) days written notice, rectify the same at Design-Build Firm's expense. County also may offset against any sums due Design-Build Firm the amount of any liquidated or un-liquidated obligations of Design-Build Firm to County, whether relating to or arising out of this Agreement or any other agreement between Design-Build Firm and County.

5. FINAL PAYMENT

5.1. County shall make final payment to Design-Build Firm within thirty (30) calendar days after the Work is finally inspected and accepted by County in accordance with Section 19.1 herein provided.

5.2. Design-Build Firm's acceptance of final payment shall constitute a full waiver of any and all claims by Design-Build Firm against County arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Design-Build Firm as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by County shall be deemed

to be a waiver of County's right to enforce any obligations of Design-Build Firm hereunder or to the recovery of damages for defective Work not discovered by the County at the time of final inspection.

6. SUBMITTALS AND SUBSTITUTIONS

6.1. Design-Build Firm shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Design-Build Firm shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.

6.2. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted by Design-Build Firm to allow the County to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by County from anyone other than Design-Build Firm and all such requests must be submitted by Design-Build Firm to County within thirty (30) calendar days after Notice of Award is received by Design-Build Firm.

6.3. If Design-Build Firm wishes to furnish or use a substitute item of material or equipment, Design-Build Firm shall make application to the County for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Design-Build Firm's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other Design-Build Firms affected by the resulting change, all of which shall be considered by the County in evaluating the proposed substitute. The County may require Design-Build Firm to furnish at Design-Build Firm's expense additional data about the proposed substitute.

6.4. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Design-Build Firm

may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County, if Design-Build Firm submits sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the County shall be the same as those provided herein for substitute materials and equipment.

6.5. The County shall be allowed a reasonable time within which to evaluate each proposed substitute. The County shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the County's prior written acceptance which shall be evidenced by either a Change Order or an approved Shop Drawing. The County may require Design-Build Firm to furnish at Design-Build Firm's expense a special performance guarantee or other surety with respect to any substitute.

7. DAILY REPORTS, AS-BUILTS AND MEETINGS

7.1. Unless waived in writing by County, during the Construction Phase, Design-Build Firm shall complete and submit to the County on a weekly basis a daily log of the Design-Build Firm's work for the preceding week in a format approved by the County. The daily log shall document all activities of Design-Build Firm at the Project site including, but not limited to, the following:

- 7.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
- 7.1.2. Soil conditions which adversely affect the Work;
- 7.1.3. The hours of operation by Design-Build Firm's and subcontractor's personnel;
- 7.1.4. The number of Design-Build Firm's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
- 7.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
- 7.1.6. Description of Work being performed at the Project site;
- 7.1.7. Any unusual or special occurrences at the Project site;
- 7.1.8. Materials received at the Project site; and
- 7.1.9. A list of all visitors to the Project site.

The daily log shall not constitute nor take the place of any notice required to be given by Design-Build Firm to County pursuant to the Contract Documents.

7.2. Design-Build Firm shall maintain in a safe place at the Project site one record copy of the Contract Documents, as well as all shop drawings and other Design-Build Firm submittals and all written interpretations and clarifications issued by the County, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Design-Build Firm throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to County for reference. Upon completion of the Work, and as a condition precedent to Design-Build Firm's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to County by Design-Build Firm for County.

7.3. Design-Build Firm shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

8. CONTRACT TIME AND TIME EXTENSIONS

8.1. Design-Build Firm shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its Architect/Engineer, subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Design-Build Firm. Design-Build Firm shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.

8.2. Should Design-Build Firm be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Design-Build Firm, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Design-Build Firm shall notify the County in writing within forty-eight

(48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Design-Build Firm may have had to request a time extension.

8.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which County may be responsible, in whole or in part, shall relieve Design-Build Firm of its duty to perform or give rise to any right to damages or additional compensation from County. Design-Build Firm expressly acknowledges and agrees that it shall receive no damages for delay. Design-Build Firm's sole remedy, if any, against County will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

9. CHANGES IN THE WORK

9.1. County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Design-Build Firm shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to the Design-Build Firm for any increased compensation without such written order. No officer, employee or agent of County is authorized to direct any extra or changed work orally.

9.2. A Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Design-Build Firm and County concerning the requested changes. Design-Build Firm shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Design-Build Firm shall mutually agree.

9.3. If County and Design-Build Firm are unable to agree on a Change Order for the requested change, Design-Build Firm shall, nevertheless, promptly perform the change as directed by County in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by County. If Design-Build Firm disagrees with the County's adjustment determination, Design-Build Firm must make a claim pursuant to Section 10 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

9.4. In the event a requested change results in an increase to the Contract Amount, as to design the amount of the increase shall be based upon the standard hourly billing rates, according to classification of the Design-Build Firm's Architect/Engineer plus expenses to be charged at actual cost. As to the construction, the amount of the increase shall be limited to the Design-Build Firm's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Design-Build Firm for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Design-Build Firm and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.

9.5. County shall have the right to conduct an audit of Design-Build Firm's books and records to verify the accuracy of the Design-Build Firm's claim with respect to Design-Build Firm's costs associated with any Change Order.

9.6. The County shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the Design-Build Firm.

10. CLAIMS AND DISPUTES

10.1. A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between County and Design-Build Firm arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.

10.2. Claims by the Design-Build Firm shall be made in writing to the County within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Design-Build Firm shall be deemed to have waived the Claim. Written supporting data shall be submitted to the County within fifteen (15) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the Design-Build Firm shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 9.4.

10.3. The Design-Build Firm shall proceed diligently with its performance as directed by the County, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by the County in writing. County shall continue to

make payments in accordance with the Contract Documents during the pendency of any Claim.

11. OTHER WORK

11.1. County may perform other work related to the Project at the site by County's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Design-Build Firm. If Design-Build Firm believes that such performance will involve additional expense to Design-Build Firm or require additional time, Design-Build Firm shall send written notice of that fact to County within forty-eight (48) hours of being notified of the other work. If the Design-Build Firm fails to send the above required forty-eight (48) hour notice, the Design-Build Firm will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

11.2. Design-Build Firm shall afford each utility owner and other Design-Build Firm (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Design-Build Firm shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Design-Build Firm shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the County and the others whose work will be affected.

11.3. If any part of Design-Build Firm's Work depends for proper execution or results upon the work of any other Design-Build Firm or utility owner (or County), Design-Build Firm shall inspect and promptly report to County in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Design-Build Firm's failure to report will constitute an acceptance of the other work as fit and proper for integration with Design-Build Firm's Work.

12. INDEMNIFICATION AND INSURANCE

12.1. Design-Build Firm shall pay on behalf of or indemnify and hold harmless the County and its, agents, officers and employees from all liabilities, damages, losses, and costs, including attorneys' and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Design-Build Firm or by any person, firm or corporation (including but not limited to the Architect/Engineer) to whom any portion of the Work is subcontracted by Design-Build Firm or resulting from the use by Design-Build Firm, or by any one for whom Design-Build Firm is legally liable, of any materials, tools, machinery or other property of County. Design-Build Firm's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of

Design-Build Firm or by any person, firm or corporation to whom any portion of the Work is subcontracted by Design-Build Firm, and Design-Build Firm shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Design-Build Firm agree one percent (1%) of the Contract Amount paid by County to Design-Build Firm shall be given as separate consideration for this indemnification, and any other indemnification of County by Design-Build Firm provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Design-Build Firm by Design-Build Firm's acceptance and execution of the Agreement.

Design Build Firm agrees that such indemnification by Design Build Firm relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. The Design-Build Firm's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

12.2. Design-Build Firm shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies or trusts which are registered with the State of Florida. Foreign or off-shore insurance carriers are not acceptable for work under this contract unless admitted to the State of Florida. All commercial insurance carriers providing the Design-Build Firm with required insurance shall be rated with a minimum financial size category of VII according to the AM Best Rating Guide, latest edition. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Within ten (10) calendar days after Notice of Award is received by Design-Build Firm and prior to the commencement of work, Design-Build Firm shall provide County with properly executed Certificates of Insurance to evidence Design-Build Firm's compliance with the insurance requirements of the Contract Documents. Said Certificates of Insurance shall be on forms approved by County, such as "Acord Form 25". The Certificates of Insurance shall be personally, manually signed by the authorized representatives of the insurance company/companies shown on the Certificates of Insurance, with proof that they are authorized representatives thereof. Certificates of Insurance shall be mailed to Escambia County in care of: Purchasing Manager, Office of Purchasing, P.O. Box 1591, Pensacola, Florida 32597-1591. In addition, certified, true and exact copies of all insurance policies required hereunder shall be provided to County, on a timely basis, when requested by County.

12.3. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice by registered or certified mail shall be given County of any cancellation, intent not to renew, or reduction in the policies or coverages, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of any policy, Design-Build Firm shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.

12.4. All insurance coverages of the Design-Build Firm shall be primary to any insurance or self insurance program carried by the County applicable to this Project. The acceptance by County of any Certificate of Insurance does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Contract Documents. No work shall commence at the Project site unless and until the required Certificates of Insurance are received by the County.

12.5. Design-Build Firm shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in Exhibit C, unless such insurance requirements for the subcontractor is expressly waived in writing by the County. All liability insurance policies, other than professional liability, worker's compensation and employer's liability policies, obtained by Design-Build Firm to meet the requirements of the Contract Documents shall name Escambia County as an additional insured and shall contain severability of interest provisions. Escambia County shall also be designated as certificate holder with the address of P. O. Box 1591, Pensacola, Florida 32597-1591. If any insurance provided pursuant to the Contract Documents expires prior to the completion of the Work, renewal Certificates of Insurance and, if requested by County, certified, true copies of the renewal policies, shall be furnished by Design-Build Firm within thirty (30) days prior to the date of expiration. Upon expiration of an insurance policy term during the course of work under the contract, succeeding insurance policies shall be consecutive to the expiring policy.

12.6 All liability policies shall be underwritten on the "occurrence" basis, unless otherwise approved in writing by the County Division of Risk Management. "Claims made" policies, if approved by the Risk Manager, and subsequent insurance certificates shall provide a "retro-date" which shall include the effective date of the contract. "Claims-made" renewals or carrier and policy replacements shall reflect the original "retro-date."

12.7. Should at any time the Design-Build Firm not maintain the insurance coverages required herein, the County may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Design-Build Firm for such coverages purchased. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

12.8 Design-Build Firm shall submit to County a copy of all accident reports arising out of any personal injuries or property damages arising or alleged to have arisen on account of any work by Design-Build Firm or sub-Contractor under the contract documents.

12.9 Duty to Provide Legal Defense. To the extent permitted by law, the Design-Build Firm shall pay for and provide a legal defense for County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by County, for all liabilities, damages, losses, and costs as described in paragraph 12.1 above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

13. COMPLIANCE WITH LAWS

13.1 Design-Build Firm agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Design-Build Firm observes that the Contract Documents are at variance therewith, it shall promptly notify County in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Florida Department of Transportation Manual of Traffic Control and Safe Practices. Failure to adhere to the requirements of the above named laws and regulations regarding safety and traffic control shall be grounds for an immediate work stoppage, either by County staff or the Design-Build Firm, until the deficiency is corrected.

13.2 **EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):** In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

14. CLEANUP AND PROTECTIONS

14.1. Design-Build Firm agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Design-Build Firm shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by County.

14.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Design-Build Firm from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Design-Build Firm to the condition equal to that existing at the time of Design-Build Firm's commencement of the Work.

15. ASSIGNMENT

15.1. Design-Build Firm shall not assign this Agreement or any part thereof, without the prior consent in writing of County. If Design-Build Firm does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Design-Build Firm all of the obligations and responsibilities that Design-Build Firm has assumed toward County.

16. PERMITS, LICENSES AND TAXES

16.1. All permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Design-Build Firm. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Design-Build Firm to County have been disclosed to Design-Build Firm in the bidding documents or other request for proposal at the time the Project was let for bid. If Design-Build Firm performs any Work without obtaining, or contrary to, such permits or licenses, Design-Build Firm shall bear all costs arising therefrom. Design-Build Firm shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.

16.2. Design-Build Firm shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

17. TERMINATION FOR DEFAULT

17.1. Design-Build Firm shall be considered in material default of the Agreement and such default shall be considered cause for County to terminate the Agreement, in whole or in part, as further set forth in this Section, if Design-Build Firm: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to

properly and timely perform the Work as directed by the County or as provided for in the approved Progress Schedule; or (3) commits errors or omissions in the performance of the architectural/engineering design or inspection services; or (4) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (5) discontinues the prosecution of the Work; or (6) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (7) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (8) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (9) makes an assignment for the benefit of creditors; or (10) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (11) materially breaches any other provision of the Contract Documents.

17.2. County shall notify Design-Build Firm in writing of Design-Build Firm's default(s). If County determines that Design-Build Firm has not remedied and cured the default(s) within seven (7) calendar days following receipt by Design-Build Firm of said written notice, then County, at its option, without releasing or waiving its rights and remedies against the Design-Build Firm's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Design-Build Firm's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Design-Build Firm, take assignments of any of Design-Build Firm's subcontracts and purchase orders, and complete all or any portion of Design-Build Firm's Work by whatever means, method or agency which County, in its sole discretion, may choose.

17.3. If County deems any of the foregoing remedies necessary, Design-Build Firm agrees that it shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) or damages incurred by County incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Design-Build Firm agrees to pay promptly to County on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the County to complete the Work, such excess shall be paid to the Design-Build Firm. The amount to be paid to the Design-Build Firm or County, as the case may be, and this obligation for payment shall survive termination of the Agreement.

17.4. The liability of Design-Build Firm hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by County in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefor or re-letting the Work, in settlement, discharge or compromise of any claims, demands, suits, and judgments

pertaining to or arising out of the Work hereunder.

17.5. If, after notice of termination of Design-Build Firm's right to proceed pursuant to this Section, it is determined for any reason that Design-Build Firm was not in default, or that its default was excusable, or that County is not entitled to the remedies against Design-Build Firm provided herein, then Design-Build Firm's remedies against County shall be the same as and limited to those afforded Design-Build Firm below under Subsection 18.1, Termination for Convenience.

17.6 If the Design-Build Firm refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Design-Build Firm in conjunction with this Agreement then the County may, without prejudice to any right or remedy and after giving the Design-Build Firm and his surety, if any, seven (7) days written notice, during which period Design-Build Firm still fails to allow access, terminate the employment of the Design-Build Firm and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Design-Build Firm, and may finish the project by whatever method it may deem expedient. In such case, the Design-Build Firm shall not be entitled to receive any further payment until the Project is finished. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Design-Build Firm (excluding monies owed the Design-Build Firm for subcontract work).

18. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION

18.1. County shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Design-Build Firm. In the event of such termination for convenience, Design-Build Firm's recovery against County shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Design-Build Firm shall not be entitled to any other or further recovery against County, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.

18.2. County shall have the right to suspend all or any portions of the Work upon giving Design-Build Firm two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Design-Build Firm's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Design-Build Firm be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds three (3) months, the Design-Build Firm shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

19. COMPLETION

19.1. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the County shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a final Certificate for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Design-Build Firm is due and payable. The final payment shall not become due and payable until Design-Build Firm submits: (1) the Release and Affidavit in the form attached as Exhibit D, (2) consent of surety to final payment, (3) if required by County, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County, and (4) a published copy of the Notice of Completion as provided for in section 19.2. County reserves the right to inspect the Work and make an independent determination as to the Work's acceptability. Unless and until the County is completely satisfied, the final payment shall not become due and payable.

19.2 After the Work is ready for final inspection and acceptance by the County, a legal advertisement must be published by the Design-Build Firm in a local newspaper of a general countywide circulation at least thirty (30) days before final payment shall be made. Example of such publication is as follows:

Legal Notice of Completion

Notice is hereby given that the undersigned Design-Build Firm has completed and has ready for acceptance by the Board of County Commissioners of Escambia County, Florida, the following construction project:

(Project Name and Address)

(Legal Name and Address - entity of the Design-Build Firm)

Subcontractors, materialmen, and other persons having payment claims against the Design-Build Firm relating to this project should govern themselves accordingly.

20. WARRANTY

20.1. Design-Build Firm shall obtain and assign to County all express warranties given to Design-Build Firm or any subcontractors by any material men supplying materials, equipment or fixtures to be incorporated into the Project. Design-Build Firm warrants to County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Design-Build Firm further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within one (1) year after substantial completion and acceptance, any Work is found to be defective or not in conformance with the Contract Documents, Design-Build Firm shall correct it promptly after receipt of written notice from County. Design-Build Firm shall also be responsible for and pay for replacement or repair of adjacent materials or Work, which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which County is entitled as a matter of law. The Performance Bond shall remain in full force and effect throughout the one (1) year Warranty Period.

21. TESTS AND INSPECTIONS

21.1. County, its respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Design-Build Firm shall provide proper, safe conditions for such access. Design-Build Firm shall provide County with timely notice of readiness of the Work for all required inspections, tests or approvals.

21.2. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Design-Build Firm shall assume full responsibility therefore, pay all costs in connection therewith and furnish County the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the County.

21.3. If any Work that is to be inspected, tested or approved is covered without written concurrence from the County, such work must, if requested by County, be uncovered for observation. Such uncovering shall be at Design-Build Firm's expense unless Design-Build Firm has given County timely notice of Design-Build Firm's intention to cover the same and County has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from County, such Work must, if requested by County, be uncovered for County's observation and be replaced at Design-Build Firm's sole expense.

21.4. The County shall charge to Design-Build Firm and may deduct from any payments due Design-Build Firm all engineering and inspection expenses incurred by County in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

21.5. Neither observations by the County nor inspections, tests or approvals by others shall relieve Design-Build Firm from Design-Build Firm's obligations to perform the Work in accordance with the Contract Documents.

22. DEFECTIVE WORK

22.1. Work not conforming to the requirements of the construction plans or Contract Documents or work conforming to the construction plans or contract documents containing errors or omissions, including, but not limited to, design flaws shall be deemed defective Work. If required by County, Design-Build Firm shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by County, remove it from the site and replace it with undefective Work. Design-Build Firm shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold County harmless for same.

22.2. If the County considers it necessary or advisable that covered Work be observed by County or inspected or tested by others, Design-Build Firm, at County's request, shall uncover, expose or otherwise make available for observation, inspection or tests as County may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Design-Build Firm shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and County shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Design-Build Firm shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

22.3. If any portion of the Work is defective, or Design-Build Firm fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, County may order Design-Build Firm to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County to stop the Work shall not give rise to any duty on the part of County to exercise this right for the benefit of Design-Build Firm or any other party.

22.4. Should the County determine, at its sole opinion, it is in the County's best interest to accept defective Work, the County may do so. Design-Build Firm shall bear all direct, indirect and consequential costs attributable to the County's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the County accepts such defective Work after final payment, Design-Build Firm shall promptly pay County an appropriate amount to adequately compensate County for its acceptance of the defective Work.

22.5. If Design-Build Firm fails, within a reasonable time after the written notice from County, to correct defective Work or to remove and replace rejected defective Work as required by County, or if Design-Build Firm fails to perform the Work in accordance with the Contract Documents, or if Design-Build Firm fails to comply with any of the provisions of the Contract Documents, County may, after seven (7) days' written notice to Design-Build Firm, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, County may exclude Design-Build Firm from any or all of the Project site, take possession of all or any part of the Work, and suspend Design-Build Firm's services related thereto, take possessions of Design-Build Firm's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which County has paid Design-Build Firm but which are stored elsewhere. Design-Build Firm shall allow County, and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable County to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of County in exercising such rights and remedies shall be charged against Design-Build Firm, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or damaged by correction, removal or replacement of Design-Build Firm's defective Work. Design-Build Firm shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

23. SUPERVISION AND SUPERINTENDENTS

23.1. Design-Build Firm shall supervise 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. Design-Build Firm shall be responsible to see that the finished Work complies accurately with the Contract Documents. Design-Build Firm shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to County except under extraordinary circumstances. The superintendent shall be Design-Build Firm's representative at the Project site and shall have authority to act on behalf of Design-Build Firm. All communications given to the superintendent shall be as binding as if given to the Design-Build Firm. County shall have the right to direct Design-Build Firm to remove and replace its Project superintendent, with or without cause.

24. PROTECTION OF WORK

24.1. Design-Build Firm shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Design-Build Firm, or any one for whom Design-Build Firm is legally liable, is responsible for any loss or damage to the Work, or other work or materials of County or County's separate Design-Build Firms, Design-Build Firm shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Design-Build Firm.

24.2. Design-Build Firm shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Design-Build Firm subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

25. EMERGENCIES

25.1. In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Design-Build Firm, without special instruction or authorization from County is obligated to act to prevent threatened damage, injury or loss. Design-Build Firm shall give County written notice within forty-eight (48) hours after the occurrence of the emergency, if Design-Build Firm believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the County determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Design-Build Firm fails to provide the forty-eight (48) hour written notice noted above, the Design-Build Firm shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

26. USE OF PREMISES

26.1. Design-Build Firm shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Design-Build Firm shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

27. SAFETY

27.1. The Design-Build Firm shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Design-Build Firm shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- 27.1.1. All employees of the Work and other persons and/or organizations who may be affected thereby;
- 27.1.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and
- 27.1.3. Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.

27.2. The Design-Build Firm shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Design-Build Firm shall erect and maintain all necessary safeguards for such safety and protection. The Design-Build Firm shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Design-Build Firm's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by County has occurred.

27.3. The Design-Build Firm shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Design-Build Firm's superintendent unless otherwise designated in writing by the Design-Build Firm to the County.

27.4. The Design-Build Firm shall adhere at all times to the minimum safety guidelines for construction and renovation projects as set out in Exhibit C of this Agreement.

28. PROJECT MEETINGS

Prior to the commencement of Work, the Design-Build Firm shall attend a preconstruction conference with the County to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Design-Build Firm shall attend any and all meetings convened by the County with respect to the Project, when directed to do so by County. Design-Build Firm shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by the County.

EXHIBIT B
PERFORMANCE AND PAYMENT BOND

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

(Insert name, address, and phone number of contractor), as Principal, and

_____,
(Insert full name, home office address and phone number of surety) as Surety, are held and firmly bound unto the Board of County Commissioners for Escambia County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, as Oblige in the sum of

Dollars (\$_____), for the payment whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Principal has entered into a contract dated as of the _____ day of _____, 20____, with Oblige for Contract No. _____,

(Insert name of project, including legal description, street address of property and general description of improvement) in accordance with drawings and specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Oblige any and all losses, damages, costs and attorneys' fees that Oblige sustains because of any default by Principal under the Contract; and
3. Performs the guarantee of all work and materials furnished under the Contract applicable to the work and materials, then this bond is void; otherwise it remains in full force; and
4. Principal understands and agrees that this bond shall remain in full force and effect throughout the two (2) year warranty period after substantial completion of the work.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penalty sum of this Performance Bond, regardless of the number of suits that may be filed by Obligee.

IN WITNESS WHEREOF, the above parties have executed this instrument this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these premises duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____, of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)
Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

ATTEST:

SURETY: _____
(Printed Name)

Witness

(Business Address)

Witness

(Authorized Signature)

(Printed Name)
OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____
by _____, as _____ of _____ as
Surety, on behalf of Surety. He/she is personally known to me **OR** has produced _____ as
identification and did (did not) take an oath.
My Commission Expires: _____

(AFFIX OFFICIAL SEAL)

(Signature)

Name: _____

(Legibly Printed)

Notary Public, State of _____

Serial No., If Any: _____

BOND NO. _____

PAYMENT BOND

BY THIS BOND, We, _____

(Insert name, address and phone number of contractor)

(hereinafter called the "Principal")

and _____ (hereinafter called the "Surety"),

(Insert name)

located at _____, a surety insurer

(Insert address and phone number)

chartered and existing under the laws of the State of _____ and authorized to do business

in the State of Florida, are held and firmly bound unto the Board of County Commissioners for Escambia

County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, (hereinafter called

the "County") in the sum of _____ (\$ _____) for

payment of which we bind ourselves, our heirs, our personal representatives, our successors and our assignees, jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement relating to Contract No. _____

(hereinafter referred to as the "Contract") as of _____ (the bid award date for projects thereto)

for the purpose of _____

(Insert name of project, including legal description, street address of property and general description of improvement.)

said Contract being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Performs the contract dated _____, _____, between Principal and County for construction of _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that the County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

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.

BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the County of any extension of time for the performance of the said Contract, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to Section 255.05, Florida Statutes.

THIS BOND DATED THE _____ DAY OF _____, 20____ (the date of issue by the Surety or by the Surety's agent and the date of such agents power-of-attorney).

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____
Name: _____
Its: _____

Witnesses as to Principal

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____, as _____, of _____, a
_____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced
_____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

ATTEST:

Witness

Witness

Witnesses

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____ as Surety, on behalf of Surety. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(AFFIX OFFICIAL SEAL)

SURETY: _____
(Printed Name)

(Business Address)

(Authorized Signature)

(Printed Name)

OR

As Attorney In Fact (Attach Power)

(Business Address)

(Printed Name)

(Telephone Number)

(Signature)

Name: _____

(Legibly Printed)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT "C"

INSURANCE AND SAFETY

INSURANCE - BASIC COVERAGES REQUIRED

The Design-Build Firm shall procure and maintain the following described insurance, except for coverages specifically waived by the County. Such policies shall be from insurers with a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Such on policies shall provide coverages for any or all claims which may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of the Contract Documents, whether such services, work and operations be by the Design-Build Firm, its employees, or by subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

The Design-Build Firm shall require, and shall be responsible for assuring throughout the time the Agreement is in effect, that any and all of its subcontractors obtain and maintain until the completion of that subcontractor's work, such of the insurance coverages described herein as are required by law to be provided on behalf of their employees and others.

The required insurance shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

These insurance requirements shall not limit the liability of the Design-Build Firm. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Design-Build Firm's interests or liabilities, but are merely minimums.

Except for workers compensation and professional liability, the Design-Build Firm's insurance policies shall be endorsed to name Escambia County as an additional insured to the extent of its interests arising from this agreement, contract or lease.

The Design-Build Firm waives its right of recovery against the County, to the extent permitted by its insurance policies.

The Design-Build Firm's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Design-Build Firm is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Design-Build Firm or any other insurance of the Design-Build Firm shall be considered primary, and insurance of the County, if any, shall be considered excess, as may be applicable to claims obligations, which arise out of this agreement,

contract or lease.

Workers Compensation Coverage

The Design-Build Firm shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease, or a valid certificate of exemption issued by the state of Florida, or an affidavit in accordance the provisions of Florida Workers Compensation law.

Design-Build Firm shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile And Excess Or Umbrella Liability Coverage

The Design-Build Firm shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent Design-Build Firms, contractual liability covering this agreement, contract or lease, broad form property damage coverages, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Design-Build Firm is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages. Umbrella coverage shall drop down to provide coverage where the underlying limits are exhausted.

Evidence/Certificates of Insurance

Required insurance shall be documented in Certificates of Insurance. If and when required by the County, Certificates of Insurance shall be accompanied by documentation that is acceptable to the County establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of each insurance company underwriting the insurance coverages(s) indicated on each Certificate of Insurance.

New Certificates of Insurance are to be provided to the County at least 30 days prior to coverage renewals. Failure of the Design-Build Firm to provide the County with such renewal certificates may be considered justification for the County to terminate this agreement, contract or lease.

Certificates should contain the following additional information.

1. Indicate that Escambia County is an additional insured on the general liability policy.
2. Include a reference to the project and the Office of Purchasing number.
3. Disclose any self-insured retentions in excess of \$1,000.
4. Designate Escambia County as the certificate holder as follows:
Escambia County
Attention:
Office of Purchasing
P.O. Box 1591
Pensacola, FL 32597-1591
Fax (850) 595-4805
5. Indicate that the County shall be notified at least 30 days in advance of cancellation.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Design-Build Firm's obligation to fulfill the insurance requirements herein.

If requested by the County, the Design-Build Firm shall furnish complete copies of the Design-Build Firm's insurance policies, forms and endorsements, and/or such additional information with respect to its insurance as may be requested.

For Commercial General Liability coverage the Design-Build Firm shall, at the option of the County, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

ENDORSEMENTS/ADDITIONAL INSURANCE

The County requires the following endorsements or additional types of insurance.

COMMERCIAL GENERAL LIABILITY COVERAGE PROJECT AGGREGATE

Because the Commercial General Liability form of coverage includes an annual aggregate limitation on the amount of insurance provided, a separate project aggregate limit of \$1,000,000 is required by the County for this agreement or contract.

PROFESSIONAL LIABILITY/MALPRACTICE/ERRORS OR OMISSIONS INSURANCE

The Design Build Firm shall purchase and maintain Professional Liability or malpractice or errors or omissions insurance coverage with a minimum limit of \$1,000,000, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

MINIMUM PROJECT SAFETY REQUIREMENTS

The following safety requirements represent the minimum condition, which shall be met by all Design-Build Firms and subcontractors performing work for Escambia County: Reported or observed violations of Federal and State laws and regulations, or County ordinances shall be brought to the attention of the County project manager and County's Department of Safety and Risk Services and shall be immediately corrected by the Design-Build Firm. Additionally, the County may order work to be stopped if conditions exist that present immediate danger to persons or property. The Design-Build Firm acknowledges that any such stoppage will not shift responsibility for any damages from the Design-Build Firm to the County. Failure to comply with required safety procedures shall result in the suspension of the Work of the Design-Build Firm until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Design-Build Firm may be referred by the County's Department of Safety and Risk Services for inspection or interpretation. The Design-Build Firm shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

- (1) Prior to the commencement of the project, the Design-Build Firm and all subcontractors shall provide to the County a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.
- (2) The Design-Build Firm shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including County and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Design-Build Firm representative or by the project manager or designee.
- (3) The Design-Build Firm shall provide all necessary safety equipment for County staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Design-Build Firm or required by State or Federal safety regulations.
- (4) Construction vehicles on the work site shall always be operated in a safe manner. The Design-Build Firm shall take appropriate action to ensure the safety of County staff, visitors, and the general public while operating work vehicles at a "controlled" construction site. Where conditions warrant, or at the request of the County, temporary barriers shall also be established for these traffic areas.
- (5) The Design-Build Firm shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to County staff, visitors, or the general public. At a

minimum, the project site shall be posted with the appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: THIS AREA IS A DESIGNATED CONSTRUCTION SITE; ANYONE TRESPASSING ON THIS PROPERTY SHALL, UPON CONVICTION, BE GUILTY OF A FELONY; "A DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY," and other general safety warning signs, i.e., "HARD HAT AREA," as are deemed necessary by the Design-Build Firm and project manager.

- (6) In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the County safety Office. Alternative measures may include, but are not limited to, working during "off 'hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the County).
- (7) The Design-Build Firm shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the County's Department of Safety and Risk Services and the appropriate life safety code inspector), shall the life safety code components of an occupied facility be reduced or otherwise compromised.

A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Design-Build Firm shall communicate with each subcontractor and County's Department of Safety and Risk Services as to scheduling of events that may pose hazards or inconveniences to building occupants. The Design-Build Firm shall also ensure that appropriate scheduling information is also conveyed to the project manager.

- When a project alters a building's fire protection compartment features, such as fire barriers, smoke barriers, or corridor walls, exits must provide free and unobstructed egress. Employees shall receive notice if any alternative exits have been designated. Buildings or areas under construction must maintain escape egress for construction workers at all times. These means of egress shall be inspected daily by the Design-Build Firm.
- When a project affects fire alarms, fire detection, or fire suppression systems, of a building that is occupied, the Design-Build Firm must ensure that such systems are not functionally impaired. Any temporary systems, which are installed, must be inspected and tested monthly by the Design-Build Firm. Employees must be notified when such temporary systems are in place.
- When any sources of ignition are present, such as welding torches, smoking by all persons shall be prohibited on any construction site and in any County facility.

- (8)** Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Design-Build Firm to adhere to the following guidelines at a minimum:
- (a)** The Design-Build Firm shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The Design-Build Firm shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the County's Department of Safety and Risk Services. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.
 - (b)** Material Safety Data Sheets (MSDS) shall be provided to the County's Department of Safety and Risk Services for all hazardous substances used on the project or brought on the job site. These products include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.
 - (c)** Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Design-Build Firm shall also determine whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Design-Build Firm.
 - (d)** The Design-Build Firm should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.
- (9)** The Design-Build Firm shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing County 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.

- (10) The Design-Build Firm agrees and understands that all County construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or County regulatory agencies.
- (11) The Design-Build Firm shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Design-Build Firm shall ensure that these containers are subsequently emptied on a regular basis.
- (12) Water runoff and soil erosion from the project site shall be controlled by the Design-Build Firm pursuant to the regulations of the Florida Department of Environmental Protection.
- (13) Water-based paint and stain products shall be used by the Design-Build Firm in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior written approval from the County's Department of Safety and Risk Services shall be obtained before their use.
- (14) The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior written approval for use of these metals shall be obtained by the Design-Build Firm from the County's Department of Safety and Risk Services.
- (15) The use of any radioactive materials by the Design-Build Firm on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Design-Build Firm to the project manager and County's Department of Safety and Risk Services for review.
- (16) The County contracts out the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement Design-Build Firms. General Design-Build Firms, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Design-Build Firms who encounter such materials shall immediately stop work and notify the project manager and the County's Department of Safety and Risk Services.
- (17) The above-cited guidelines represent minimum expectations and actions, which shall be taken by Design-Build Firms while under contract for County construction

and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager and County's Department of Safety and Risk Services.

SAMPLE

EXHIBIT "D"

RELEASE AND AFFIDAVIT

COUNTY OF ESCAMBIA
STATE OF FLORIDA

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Design-Build Firm") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Board of County Commissioners of Escambia County, Florida, ("County") relating in any way to the performance of the Agreement between Design-Build Firm and County dated _____, 20____, for the period from _____ to _____.

(2) Design-Build Firm certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Design-Build Firm agrees to indemnify, defend and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against the County arising out of the performance by Design-Build Firm of the Work covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with Design-Build Firm's
(monthly/final)

Application for Payment No. _____.

DESIGN-BUILD FIRM:

By: _____

Its: _____ President

Date: _____

Witnesses

[Corporate Seal]

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT “E”

FORM OF CONTRACT APPLICATION FOR PAYMENT

AIA DOCUMENT #G702, 1992 EDITION

SAMPLE

EXHIBIT "F"

CONSTRUCTION CHANGE ORDER

Change Order Number _____ Contract Number PD _____

Date: _____ Dated _____

To: _____

Project Name: _____

You hereby are authorized and directed to make the following changes in accordance with terms and conditions of the Agreement:

Describe changes here;

	Dollars	Time in Calendar Days
Original Contract Amount	\$ _____	_____
Sum of Previous Changes	\$ _____	_____
This Change Order	\$ _____	_____

Adjusted Agreement Amount		\$ _____

The contract substantial completion date will be **increased/decreased** by ____ calendar days due to this Change Order. The new contract substantial completion date is _____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay cost.

The Contract Administrator has directed the Design-Build Firm to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or greater value Change Order.

☐ Check if applicable and provide written confirmation from the bonding company/agent (attorney-in-fact) that the amount of the Performance and Payment bonds have been

adjusted to 100% of the new contract amount.

Accepted: _____, 20____⁵⁵

By: _____
Design/Build Firm

By: _____
Architect/Engineer

By: _____
Owner

SAMPLE

EXHIBIT “G”

OWNER DIRECT PURCHASES
SUPPLEMENTARY CONDITIONS

[FORM OF0205]

SAMPLE

EXHIBIT “H”

CONTRACT DEFINITIONS

Defined Terms

Wherever used in the Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1. *Agreement* – The written contract between OWNER and DESIGN/BUILDER covering the Work; other Contract Documents are attached to or referred in the Agreement. All such documents shall be deemed to be a part of the Agreement for all purposes.
2. *Architect & Engineer* – A duly licensed individual or entity designated by DESIGN/BUILDER to perform or furnish specified Design Professional Services in connection with the Work.
3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
4. *Bonds* – Performance and Payment Bonds and other instruments of security.
5. *Cash Flow Projection* – A schedule prepared by DESIGN/BUILDER estimating that portion of the Contract Price to be due during each month of performance.
6. *Change Order* – A written order issued by OWNER which orders minor changes in the Work for which prices for the items of work are previously established by the Contract Documents, but which does not involve a change in the physical limits of the work or the Contract Time.
7. *Construction* – The process of performing the Work and the final end product of that process. This term may also refer to portions of the final end product. The terms construct and constructing and other similar variations of those terms also refer to Construction as defined herein. The term construction shall not be deemed to include the performance of Design Professional Services.
8. *Construction Phase Fee* – The compensation to be paid to the Design-Build Firm during the Construction Phase and include:
 - 8.1 Salaries or other compensation of the Design-Build Firm's employees assigned to the project at its principal office and branch offices.
 - 8.2 The Design-Build Firm's personnel assigned during the Construction Phase, their duties, and responsibilities to this Project, and the duration of their assignments are shown on "Exhibit N". Such personnel shall not be replaced

- without prior written consent of the Owner, which shall not be unreasonably withheld.
- 8.3 General operating expenses related to this Project of the Design-Build Firm's principal and branch offices.
 - 8.4 The costs of all data processing staff.
 - 8.5 Salaries or other compensation of the Design-Build Firm's employees assigned to the project at the job site. The Design-Build Firm's personnel to be assigned to the site during the Construction Phase under the job site management and supervision fee, their duties, responsibilities, and the duration of their assignments are shown on "Exhibit N".
 - 8.6 General operating expenses incurred in the management and supervision of the Project, except direct costs, defined as Direct Costs to the Project and as defined in Paragraph 27 below.
 - 8.7 Job office supplies including paper, pencils, paper clips, file folders, staples, etc., and janitorial supplies (photo copy or blue print paper not included).
 - 8.8 Owner direct tax savings purchase program.
 - 8.9 The costs resulting from the services provided by the architects and engineers during the Construction Phase.
9. *Contract Amount* – The amount specified in Agreement Declarations, Section 3 of the Agreement as the same may be changed from time to time pursuant to the terms and conditions of this agreement.
 10. *Contract Documents* – The documents as are listed under Agreement Declarations, Section 1 of the Agreement.
 11. *Contract Time* – The time stated in "Exhibit O", the Agreement to achieve Substantial completion, and to finally complete the Work so that it is ready for final payment in accordance with article 19.1 of these General Conditions.
 12. *Defective* – An adjective which when modifying the term Construction refers to Construction that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to OWNER's final payment (unless responsibility for the protection thereof has been assumed by OWNER as of the time of damage pursuant to the Terms and Conditions of the Contract Documents).
 13. *Design/Build Firm* – The individual or entity with whom OWNER has entered into the Agreement as indicated in the Agreement.
 14. *Design Criteria Package* – The drawings and specifications and/or other graphic or written materials, criteria and information concerning OWNER's requirements for the Project, such as design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, which show or describe the character and scope of, or relate to, the Work to be performed or furnished and

which have been prepared by or for OWNER.

15. *Direct Costs to the Project –*

- 15.1 Wages paid for labor (as opposed to wages paid for management or supervisory personnel) in the direct employ of “Contractor” in the performance of “The Work” and the associated overhead per this agreement.
- 15.2 Cost of all materials, supplies, and equipment incorporated in the Project, including cost of transportation and storage thereof.
- 15.3 Payments to Subcontractors for performance of services required in the construction of the Project.
- 15.4 Costs, including maintenance and transportation of all equipment, temporary facilities and hand tools not owned by the Contractor, which are employed or consumed in the performance of “The Work”.
- 15.5 Rental charges on all necessary machinery and equipment, exclusive of hand tools, used at the Project site and required for performance of “The Work”.
- 15.6 Premium costs for all insurance and all bonds that the Contractor is required to procure per this agreement.
- 15.7 Taxes, sales, use gross receipts or similar taxes related to allowable direct costs to the Project.
- 15.8 Minor expenses at the site to be billed at cost, i.e., postage, telephone service, and similar petty cash items required by the Project.
- 15.9 Costs for trash and debris control and removal from the site.
- 15.10 Costs incurred due to an emergency affecting the safety of persons or property at the site.
- 15.11 Costs for temporary facilities during construction as required by the Project.
- 15.12 Upon completion of “The Work” the Design-Build Firm shall provide the required number of “as built” drawings.
- 15.13 Reserve for Casualty loss. A sum shall be included in the Construction Contingency fee to protect the Work in the event of uncompensated loss. In the event this sum is not needed, it shall be returned to the Owner at the time of the issuance of the Certificate of Occupancy.
- 15.14 Owner’s reserve, which shall be defined as a sum of money owned by and under the control of the Owner for use as deemed necessary by the Owner for the Work.

16. *Drawings –* Those portions of the Contract Documents prepared by or for Design/Builder and approved by OWNER consisting of drawings, diagrams, illustrations, schedules and other data which show the scope, extent, and character of the work.

17. *Effective Date of the Agreement –* The date indicated in the Agreement on which it 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.

18. *Final Completion* – The time at which all Construction and all Work has been fully, finally, and properly completed in accordance with the Contract Documents and all other duties, responsibilities, and obligations have been performed so as to entitle the DESIGN/BUILDER to submit a bill or invoice for final payment in accordance with article 19.1 of these General Conditions. The terms *finally complete* and *finally completed* also refer to Final Completion.
19. *Guaranteed Maximum Price (GMP)* – The total maximum cost to the County for the Work performed by the Design-Build Firm including the Preconstruction Phase Fee, the Construction Phase Fee, Overhead and Profit, and the Direct Costs.
20. *Invoice or Bill* – The form which is to be used by DESIGN/BUILDER in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
21. *Laws and Regulations; Law or Regulations* – Any and all applicable laws rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.
22. *Milestone* – An event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work which the DESIGN/BUILDER is required to meet. Time shall be of the essence as to any Milestone.
23. *Notice of Proceed* – A written notice given by OWNER to DESIGN/BUILDER authorizing the Work to begin and fixing the date on which the Contract Time will Commence to run.
24. *Overhead and Profit for the Construction Phase* - The compensation paid to the Contractor for the overhead, profit and general expenses as negotiated and agreed upon by the Owner, related to the construction phase of the Project, except those expenses expressly included in the Direct Costs of the Project and included in Section 4(B). Payment shall be made proportionally to the ratio of the Cost of the Work in place, and less retainage, as it bears on the GMP. The balance of the Overhead and Profit shall be paid when construction of the Project is finally completed.
25. *OWNER* – The public body, or authority, individual or entity with whom DESIGN/BUILDER has entered into the Agreement and for whom the Work is to be provided as indicated in the Agreement.
26. *OWNER's Consultant* – An individual or entity having a contract with OWNER to furnish services as OWNER's consultant with respect to the Project.

27. *OWNER's Representative* – A person designated to act as OWNER's representative with respect to DESIGN/BUILDER's performance of the Work. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies, and make decisions with respect to performance of the Work.
28. *Partial Utilization* – Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.
29. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.
30. *Preconstruction Phase Fee* – The compensation to be paid to the Design-Build Firm for services performed during the Preconstruction Phase and include:
- 30.1 Salaries or other compensation of the Design-Build Firm's employees for services provided.
 - 30.2 The costs resulting from the services provided by the architects and engineers during the Preconstruction Phase.
 - 30.3 Costs of other services directly related to the Project.
 - 30.4 The Overhead and Profit related to the Preconstruction Phase.
31. *Project* – The entire undertaking of the OWNER, identified by OWNER as indicated in the exhibits of the Agreement, of which the Construction to be provided under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.
32. *Schedule of Values* – A schedule prepared by DESIGN/BUILDER and accepted by OWNER which divides the Work into various major components, units, or divisions and which assigns a portion of the Contract Price to each of such components, units or divisions.
33. *Site* – The real property or other areas designated in the Contract Documents as being furnished by OWNER for the performance of the Construction, storage, or access.
34. *Specifications* – Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Construction and certain administrative details applicable thereto.
35. *Submittal* – A written or graphic document prepared by or for DESIGN/BUILDER

which is required by the Contract Documents to be submitted to OWNER by DESIGN/BUILDER. Submittal may include, but are not necessarily limited to Drawings, Specifications, Progress Schedules Shop Drawings, Samples, Cash Flow Projections, and Schedules of Values. Submittals other than Drawings and Specifications are not Contract Documents.

36. *Substantial Completion* – The time at which the Construction has progressed and the Work has been completed to the point where it is sufficiently complete, in accordance with the Contract Documents, so that the Construction can be effectively and efficiently utilized for the purposes for which it is intended without any material impairment of function. The terms substantially complete and substantially completed refer to Substantial Completion. The term Substantial Completion may be used in the Contract Documents in reference to a particular portion of the construction in which case the term will be applied as defined above only to that portion of the Construction; otherwise it shall be deemed to refer to the total Construction.
37. *Supplementary Conditions* – The part of the Contract Documents which amends or supplements these General Conditions.
38. *Work* – All labor, materials, equipment and incidentals required to fully, finally and properly complete the Construction and otherwise fully, finally and properly comply with all terms and conditions of the Contract Documents.

EXHIBIT “I”

[Design Criteria Package]

SAMPLE

EXHIBIT "J"

Schedule of Project Fees

A) Preconstruction Phase Fee

Pursuant to Section 4(a) the design phase fee for PD 06-07.032 for the performance of design services for **[Project or Projects]**_____

Shall be the amount of \$ _____

And shall be paid in monthly payments of \$ _____

Final payment of \$ _____

Payment shall be made in accordance with Exhibit A, Article 3.4 upon approval of payment submittal by County based on schedule and deliverables.

B) Construction Phase Fee

Pursuant to Section 4(a) the construction phase fee for PD 06-07.032 for the Construction of **[Project or Projects]**_____

Shall be a fee of **[total amount]** \$ _____

Shall be paid in monthly payments and one final payment upon conclusion of the project of \$ _____

Payment shall be made in accordance with Exhibit A, Article 3.5

Final payment of \$ _____

C) Overhead and Profit for the Construction Phase

Pursuant to Section 4© the overhead and profit and general expenses for PD 06-07.032, **[Project or Projects]**_____

_____ shall be \$ **[negotiated per design]** \$ **[total amount]** and shall be paid in accordance with Section 4(c).

EXHIBIT “K”

[Approved Schematic Designs/Approved Development]
[List]

SAMPLE

EXHIBIT “L”

[Approved GMP Drawings and Specification]

List of Drawings

List of Documents

SAMPLE

EXHIBIT “M”

[Preconstruction Fee Proposal]

SAMPLE

EXHIBIT “N”

[Design/Build Firm’s Project Personnel Roster]

SAMPLE

EXHIBIT “O”

[Project Schedule]

SAMPLE

EXHIBIT “P”

[GMP – Amount Detail]

SAMPLE

EXHIBIT “Q”

[Information Package – Original Solicitation]

SAMPLE

**STANDARD CONSTRUCTION CONTRACT
DOCUMENTS**

FOR

**AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF
ESCAMBIA COUNTY, FLORIDA**

AND

FORM D: Road/Drainage

(Revised 2013)

STANDARD CONSTRUCTION CONTRACT DOCUMENTS
FORM D

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**AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA
AND _____ FOR
STANDARD ROAD/DRAINAGE CONSTRUCTION
CONTRACT DOCUMENTS.**

THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, ("County"), hereby contracts with _____, a _____ corporation for profit, to perform all work ("Work") in connection with _____ ("Project"), as detailed in the attached Plans and Specifications and other Contract Documents hereafter specified.

SECTION 1. CONTRACT DOCUMENTS

- A.** The Contract Documents include this Agreement, including Amendments and Exhibits, the Exhibits described in Section 6, Change Orders, Work Directive Changes, Field Orders and the solicitation documents, including addenda. These Contract Documents are incorporated by reference and made a part of this Agreement. A copy of all Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.
- B.** In case of any inconsistency or conflict among the provisions of the agreement and any other terms and conditions of any documents comprising the Contract Documents, the provisions of the Agreement shall control. Concerning the Contract Documents, the order of precedence shall be as follows: 1) the Agreement, including Amendments and Exhibits; 2) Change Orders; 3) Work Directive Changes; 4) Field Orders; 5) the Solicitation Documents, including addenda. The Contract Documents listed above represent the entire and integrated agreement between the parties hereto, and supersede prior negotiations, representations, or agreements, either written or oral.
- C.** County shall furnish to the Contractor up to four (4) sets of the Contract Documents for execution of the Work. Additional copies of the Contract Documents are available at the cost of reproduction.

SECTION 2. SCOPE OF WORK

Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good workmanlike manner the Work required by the Contract Documents.

SECTION 3. CONTRACT AMOUNT

For satisfactory completion of the Work the County agrees to pay the Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement:

[DESCRIBE CONTRACT AMOUNT]

SECTION 4. BONDS

- A.** Contractor shall provide at his expense Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of 100% of the Contract Amount. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to County; provided; however, the surety shall be rated as "A-" (excellent) or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.
- B.** If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Document, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval. Failure by Contractor to maintain its bonds in full force and effect at all times, including the warranty period, shall be grounds for termination of this Contract.
- C.** As per Florida Statutes, Section 255.05, the Contractor shall be required to execute and record the Performance and Payment bonds. The bonds must state the name and principal business address of both the Principal and the Surety and a description of the project sufficient to identify it. (The filing costs are \$10.00 for the first page and \$8.50 for each remaining page).

SECTION 5. CONTRACT TIME AND LIQUIDATED DAMAGES.

- A.** Time is of the essence in the performance of the Work under this Agreement. Contractor shall commence the Work within ten (10) calendar days from the Commencement Date, established in the Notice to Proceed. No Work shall be performed at the Project site prior to the Commencement Date. Contractor shall provide 48 hours notice prior to beginning the Work. The Work shall be substantially completed within _____ () calendar days from the Commencement Date. The Work shall be fully completed and deemed ready by the County for final completion within _____ () calendar days from the Substantial Completion Date. The Contract Time shall be the time period from the Commencement Date to the date of final completion totaling _____ () calendar days (herein "Contract Time"). No work under this contract shall commence until certificates of insurance have been received and acknowledged by the Purchasing Manager.
- B.** County and Contractor recognize that, since time is of the essence for this Agreement, the County will suffer financial loss if the Work is not substantially completed within the time specified. Should Contractor fail to substantially complete the Work within the time period noted above, County shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed by the County on the date that the County's Architect certifies in writing that the construction of the project, or specified part thereof, is sufficiently completed in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended. Along with such certification, the Architect shall compile a "punch list" of any remaining exceptions that do not adversely affect the use of the Project.

Completion of these items will be required prior to final payment.

- C. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the County's actual damages at the time of contracting if Contractor fails to substantially complete the Work in accordance with the progress schedule.
- D. When any period of time is referenced to by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

SECTION 6. EXHIBITS INCORPORATED

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Exhibit A: General Terms and Conditions
Exhibit B: Form of Performance and Payment Bonds
Exhibit C: Insurance and Safety Requirements
Exhibit D: Form of Release and Affidavit
Exhibit E: Form of Contractor Application for Payment
Exhibit F: Form of Change Order
Exhibit G: Payment Adjustment - Bituminous Material
Exhibit H: Technical Specifications
Exhibit I: Plans & Standard Details prepared by or for County and Identified as

follows:

TITLE SHEET NO. DATE

Exhibit K: Federal Documents (if applicable)
Exhibit L: Solicitation Documents Index

SECTION 7. NOTICES

- A. All notices required or made pursuant to this Agreement by the Contractor to the County shall be in writing. All correspondence with the County should be addressed as follows:

Attention: _____

- B. All correspondence with the Contractor will be addressed to the following:

**[INSERT NAME OF CONTRACTOR, ADDRESS AND
NAME OF PERSON WITH HIS OR HER TITLE TO
WHO'S ATTENTION THE NOTICE SHOULD BE SENT]**

- C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

SECTION 8. MODIFICATION

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

SECTION 9. SUCCESSORS AND ASSIGNS

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

SECTION 10. GOVERNING LAW

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida and the parties agree that venue shall be in Escambia County, Florida for any matter which is the subject of this Contract.

SECTION 11. NO WAIVER

The failure of the County to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

SECTION 12. ENTIRE AGREEMENT

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

SECTION 13. SEVERABILITY

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: Escambia County, Florida through its Board of County Commissioners, signing by its County Administrator, duly authorized to execute this Agreement, and _____ signing by and through its President, duly authorized to execute same.

COUNTY:

Escambia County, Florida, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

Witness: _____

By: _____

County Administrator

Witness: _____

Date: _____

CONTRACTOR:

_____, a _____ Corporation, authorized to do business in the State of Florida.

ATTEST: Corporate Secretary

By: _____

By: _____
Secretary

Its: President

(Corporate Seal)

Date: _____

BCC Approved: _____

EXHIBIT A
GENERAL TERMS AND CONDITIONS

Section 1. INTENT OF CONTRACT DOCUMENTS

- 1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents, as being required to produce the intended result shall be supplied whether or not specifically called for. When words, which have a well-known technical or trade meaning, are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein.
- 1.2. If, during the performance of the Work, Contractor discovers a conflict, error or discrepancy in the Contract Document, Contractor immediately shall report same to County and before proceeding with the Work affected thereby shall obtain an interpretation or clarification from the County. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.
- 1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the County. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.
- 1.4. "Engineer", where referenced on the drawings or in the specifications or in other related documents, shall mean the Escambia County Engineer or the designated representative thereof.

Section 2. INVESTIGATION AND UTILITIES

- 2.1. Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole;

topography and ground surface conditions; nature and quality of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

- 2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Where Utilities block construction, Contractor shall aggressively pursue relocation by the Utility owners. Contractor shall immediately notify the County of any delays due to Utilities blockage and document all attempts to resolve such blockage. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

Section 3. SCHEDULE

- 3.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to County, for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress schedule may be provided in an electronic format. The Progress Schedule shall relate to all Work required by the Contract Documents and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work and shall include dates of Shop Drawing Submittals.
- 3.2. The Progress Schedule shall be updated monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the County's review and approval. Contractor shall submit the updates to the Progress Schedule with its Applications for Payment noted below. The County's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the County's obligation to pay Contractor.

Section 4. PROGRESS PAYMENTS

- 4.1. Prior to submitting its first Application for Payment, Contractor shall submit to County, for its review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the County, this schedule of values shall be used as the basis for the Contractor's Applications for Payment. This schedule shall be updated and submitted along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.
- 4.2. Prior to submitting its first Monthly Application for Payment, Contractor shall submit to County a complete list of all its proposed subcontractors and material men, showing the work and materials involved. The first Application for Payment shall be submitted no

earlier than thirty (30) days after Commencement Date.

- 4.3.** If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the County in writing, the Application for Payment will subdivide the work into component parts in sufficient detail to serve as the basis for a progress payment and shall also be accompanied by a bill of sale, invoice or other documentation warranting that upon payment by County, the County shall receive the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to the County's prior written approval.

- 4.4.** Contractor shall submit _____ (___) copies of its applications for Payment to the County on or about the 25th day of each month for work performed during that month. Contractor shall submit no more than one application for payment each month. Within ten (10) calendar days after receipt of each Application for Payment, the County shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial of the Application for Payment, the Contractor may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused, in whole or in part, the Contractor may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Contractor.

If the administrative decision is disputed, the Contractor may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Contractor will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within twenty (20) business days after County approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved by the County.

- 4.5** County shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the County for payment whichever is less. The retained sum shall be accumulated and not released to Contractor until final payment is due. Any interim interest on such sums shall accrue to County.

- 4.6 Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.
- 4.7 Each Application for Payment shall be accompanied by Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested or have been paid in full. The County shall not be required to make payment until and unless these affidavits are furnished by Contractor.
- 4.8 Applications for Payment will not be approved unless all submittals required by the Contract documents, up to that point, are provided and "As-Built" record documents are maintained as required by Section 8.2.

Section 5. PAYMENTS WITHHELD

- 5.1. The County may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The County may nullify the whole or any part of any approval for payment previously issued and County may withhold any payments otherwise due Contractor under this Agreement or any other agreement between County and Contractor, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents. If these conditions are not remedied or removed, County may, after three (3) days written notice, rectify the same at Contractor's expense. County also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to County, whether relating to or arising out of this Agreement or any other agreement between Contractor and County.

Section 6. FINAL PAYMENT

- 6.1. County shall make final payment to Contractor within forty- five (45) calendar days after the Work is finally inspected and accepted by County in accordance with Section 20.1 herein, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished County with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit D, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents or the County.
- 6.2. Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against County arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by County shall be deemed to be a waiver of County's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the County at the time of final inspection.

Section 7. SUBMITTALS AND SUBSTITUTIONS

- 7.1.** Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked, and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.
- 7.2.** Prior to submitting its first Application for Payment, Contractor shall provide to County a DVD or video tape in VHS format showing the pre-existing conditions located within the limits of construction.
- 7.3.** Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted by Contractor to allow the County to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by County from anyone other than Contractor and all such requests must be submitted by Contractor to County within thirty (30) calendar days after Notice to Proceed is received by Contractor.
- 7.4.** If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the County for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the County in evaluating the proposed substitute. The County may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.
- 7.5.** If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County, if Contractor submits sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the

Contract Documents. The procedures for submission to and review by the County shall be the same as those provided herein for substitute materials and equipment.

- 7.6. The County shall be allowed a reasonable time within which to evaluate each proposed substitute. The County shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the County's prior written acceptance, which shall be evidenced by either a Change Order or an approved Shop Drawing. The County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

Section 8. DAILY REPORTS, AS-BUILTS, AND MEETINGS

- 8.1. Unless waived in writing by County, Contractor shall complete and submit, along with its Application for Payment, to the County on a monthly basis a daily log of the Contractor's work for the preceding month in a format approved by the County. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:

- 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
- 8.1.2. Soil conditions which adversely affect the Work;
- 8.1.3. The hours of operation by Contractor's personnel and subcontractor's personnel;
- 8.1.4. The number of Contractor's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
- 8.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
- 8.1.6. Description of Work being performed at the Project site;
- 8.1.7. Any unusual or special occurrences at the Project site;
- 8.1.8. Materials received at the Project site

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to County pursuant to the Contract Documents.

- 8.2. Contractor shall maintain in a safe place at the Project site one record copy of the Contract Documents, as well as all shop drawings and other Contractor submittals and all written interpretations and clarifications issued by the County, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2)

permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to County for reference. Upon completion of the Work, and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to County by Contractor.

- 8.3.** Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

Section 9. CONTRACT TIME AND TIME EXTENSIONS

- 9.1.** Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and material men, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.
- 9.2.** Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the County in writing within forty-eight (48) hours after the commencement of such delay. Written supporting data with specific details of Contractor operations, which were delayed, shall be submitted to the County within fifteen (15) calendar days after the occurrence of the delay, unless the County grants additional time in writing for such submittals, or else the Contractor shall be deemed to have waived any right which Contractor may have had to request a time extension.
- 9.3.** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which County may be responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from County. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against County will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damages For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.
- 9.4.** Requests for delays due to adverse weather conditions shall meet all of the following conditions:

- 9.4.1. Contractor notified the County in writing within forty-eight (48) hours of the delay.
- 9.4.2. The weather was unusual as documented by supporting data.
- 9.4.3. The weather did have an adverse impact on the contractor's schedule (critical path only).
- 9.4.4. The Contractor and inspector's daily logs corroborate the adverse impact. Where a conflict exists between the weather data and the daily reports, the daily reports will take precedence.

Section 10. CHANGES IN THE WORK

- 10.1. County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost and/or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of County is authorized to direct any extra or changed work orally.
- 10.2. A Construction Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and County concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Contractor shall mutually agree.
- 10.3. If County and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by County in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by County. If Contractor disagrees with the County's adjustment determination, Contractor must make a claim pursuant to Section 11 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.
- 10.4. In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.
- 10.5. County shall have the right to conduct an audit of Contractor's books and records to

verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.

- 10.6. The County shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the Contractor.

Section 11. CLAIMS AND DISPUTES

- 11.1. A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between County and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- 11.2. Claims by the Contractor shall be made in writing to the County within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the County within fifteen (15) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 10.4.
- 11.3. The Contractor shall proceed diligently with its performance as directed by the County, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by the County in writing. County shall continue to make payments in accordance with the Contract Documents pending Claim.

Section 12. OTHER WORK

- 12.1. County may perform other work related to the Project at the site by County's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Contractor. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact with specific details of anticipated costs and delays to County within forty-eight (48) hours of being notified of the other work. Written supporting data of actual need for additional time or additional expense, shall be submitted to the County within fifteen (15) calendar days after completion of other work, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived any right which Contractor may have had to request a time extension or adjustment to the Contract Amount.
- 12.2. Contractor shall afford each utility owner and other contractor (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that

may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the County and the others whose work will be affected.

- 12.3.** If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or County), Contractor shall inspect and promptly report to County in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

Section 13. INDEMNIFICATION AND INSURANCE

- 13.1** Contractor shall pay on behalf of or indemnify and hold harmless County and its agents, officers and employees from and against all liabilities, damages, losses, and costs, including attorney's and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor or resulting from the use by Contractor, or by anyone for whom Contractor is legally liable, of any materials, tools, machinery or other property of County. Contractor's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor, and Contractor shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Contractor agree one percent (1%) of the Contract Amount paid by County to Contractor shall be given as separate consideration for this indemnification, and any other indemnification of County by Contractor provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Contractor by Contractor's acceptance and execution of the Agreement.

Contractor agrees that such indemnification by Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. Contractor's obligation to indemnify shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

- 13.2** Contractor shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies, which are registered with the State of Florida. All commercial insurance carriers providing the Contractor with required insurance shall be a minimum financial size category of VII according to the AM Best Rating Guide, latest edition. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be

considered. Within ten (10) calendar days after Notice of Award is received by Contractor and prior to the commencement of work, Contractor shall provide County with properly executed Certificates of Insurance to evidence Contractor's compliance with the insurance requirements of the Contract Documents. Said Certificates of Insurance shall be on forms approved by County, such as "Acord Form 25". The Certificates of Insurance shall be personally, manually signed by the authorized representatives of the insurance company/companies shown on the Certificates of Insurance, with proof that they are authorized representatives thereof. Certificates of Insurance shall be mailed to Escambia County in care of: Purchasing Manager, Purchasing Division, P.O. Box 1591, Pensacola, Florida 32597-1591. In addition, certified, true and exact copies of all insurance policies required hereunder shall be provided to County, on a timely basis, when requested by County.

- 13.3** The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice by registered or certified mail shall be given County of any cancellation, intent not to renew, or reduction in the policies or coverages, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of any policy, Contractor shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.
- 13.4** All insurance coverages of the Contractor shall be primary to any insurance or self-insurance program carried by the County applicable to this Project. The acceptance by County of any Certificate of Insurance does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Contract Documents. No work shall commence at the Project site unless and until the required Certificates of Insurance are received by the County.
- 13.5** Contractor shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in Exhibit C, unless such insurance requirements for the subcontractor is expressly waived in writing by the County. All liability insurance policies, other than professional liability, worker's compensation and employer's liability policies, obtained by Contractor to meet the requirements of the Contract Documents shall name Escambia County as an additional insured and shall contain Severability of Interest provisions. Escambia County shall also be designated as certificate holder with the address of P. O. Box 1591, Pensacola, Florida 32597-1591. If any insurance provided pursuant to the Contract Documents expires prior to the completion of the Work, renewal Certificates of Insurance and, if requested by County, certified, true copies of the renewal policies shall be furnished by Contractor within thirty (30) days prior to the date of expiration.
- 13.6** All liability policies shall be underwritten on the "occurrence" basis, unless otherwise approved in writing by the County Division of Risk Management. "Claims made" policies, if approved by the Risk Manager, and subsequent insurance certificates shall provide a "retro-date" which shall include the effective date of the contract. "Claims-made" renewals or carrier and policy replacements shall reflect the original "retro-date."
- 13.7** Should at any time the Contractor not maintain the insurance coverages required herein, the County may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The County shall be under no obligation to purchase such insurance, nor shall it be

responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

- 13.8** Contractor shall submit to County a copy of all accident reports arising out of any injuries to its employees or those of any firm or individual to whom it may have subcontracted a portion of the Work, or any personal injuries or property damages arising or alleged to have arisen on account of any work by Contractor under the Contract Documents.
- 13.9** Duty to Provide Legal Defense. Contractor shall pay for and provide a legal defense for the County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by the County, for all liabilities, damages, losses, and costs as described in paragraph 13.1 above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

Section 14. COMPLIANCE WITH LAWS

- 14.1** Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify County in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Section 102, Standard Specifications for Road and Bridge Construction, Florida Department of Transportation.
- 14.2** **EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):** In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Section 15. CLEANUP AND PROTECTIONS

- 15.1. Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by County. Non-compliance with directives of this section may serve as a basis of rejection of Application for Payment.
- 15.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

Section 16. ASSIGNMENT

- 16.1. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward County.

Section 17. PERMITS, LICENSES AND TAXES

- 17.1. Except as noted in paragraph 17.2 below, all permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Contractor. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Contractor to County have been disclosed to Contractor in the bidding documents or other request for proposal at the time the Project was let for bid. If Contractor performs any Work without obtaining, or contrary to, such permits or licenses, Contractor shall bear all costs arising therefrom. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.
- 17.2. Permits required for the Work from FDOT, FDEP, the Army Corps of Engineers, and any archeological permitting agency will be paid for and obtained by the County.
- 17.3. Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

Section 18. TERMINATION FOR DEFAULT

- 18.1. Contractor shall be considered in material default of the Agreement and such default shall be considered cause for County to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the County or as provided for in the approved Progress Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work; or (5) fails to resume Work

which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; or (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) materially breaches any other provision of the Contract Documents.

- 18.2.** County shall notify Contractor in writing of Contractor's default(s). If County determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then County, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's Work by whatever means, method or agency which County, in its sole discretion, may choose.
- 18.3.** If County deems any of the foregoing remedies necessary, Contractor agrees that is shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) or damages incurred by County incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to County on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the County to complete the Work, such excess shall be paid to the Contractor. The amount to be paid to the Contractor or County, as the case may be, and this obligation for payment shall survive termination of the Agreement.
- 18.4.** The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by County in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefore or re-letting the Work, in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.
- 18.5.** If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that County is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against County shall be the same as and limited to those afforded Contractor below under Subsection 19.1, Termination for Convenience.
- 18.6.** If the Contractor refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement then the County may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any,

seven (7) days written notice, during which period Contractor still fails to allow access, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Contractor, and may finish the project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Contractor (excluding monies owed the Contractor for subcontract work).

Section 19. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION

- 19.1.** County shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against County shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against County, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.
- 19.2.** County shall have the right to suspend all or any portions of the Work upon giving Contractor two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds three (3) months, the Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

Section 20. COMPLETION

- 20.1.** Upon receipt of written notice, the County will ascertain whether the work or designated portions thereof are ready for the Engineer's substantial completion inspection. From the Engineer's list of incomplete or unsatisfactory items, a schedule for the County's review will be prepared for their completion indicating such completion dates. The County will issue a Certificate of Substantial Completion when the work on the punch list has been accomplished.
- 20.2.** Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the County shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a Certificate of Final Completion and Recommendation for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor is due and payable. The final payment shall not become due and payable until Contractor submits: (1) the Release and Affidavit in the form attached as Exhibit D, (2) consent of surety to final payment, (3) if required by County, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County, and (4) a published copy of the Notice of Completion as provided for in this section. County reserves the right to inspect the Work and make an independent

determination as to the Work's acceptability. Unless and until the County is completely satisfied, the final payment shall not become due and payable.

- 20.3.** After the Work is ready for final inspection and acceptance by the County, a legal advertisement must be published by the Contractor in a local newspaper of a general countywide circulation at least thirty (30) days before final payment shall be made. Example of such publication is as follows:

Legal Notice of Completion

Notice is hereby given that the undersigned Contractor has completed and has ready for acceptance by the Board of County Commissioners of Escambia County, Florida, the following construction project:

(Project Name and Address)

(Legal Name and Address - entity of the Contractor)

Subcontractors, material men, and other persons having payment claims against the Contractor relating to this project should govern themselves accordingly.

Section 21. WARRANTY

- 21.1.** Contractor shall obtain and assign to County all express warranties given to Contractor or any subcontractors by any material men supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within two (2) years after substantial completion and acceptance, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from County. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work, which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which County is entitled as a matter of law. The Performance Bond shall remain in full force and effect throughout the two (2) year Warranty Period.

Section 22. PROJECT LAYOUT AND CONTROL

- 22.1.** Engineer will provide survey control, referencing beginning and ending stations, P.C.'s, P.T.'s and intermediate stations at 500 foot intervals. Staking is to be set along control line (base line or centerline of right-of-way, as indicated on plans) or at an offset determined by the Engineer. Bench Marks will be provided at intervals no greater than 1000 feet. The Engineer at the Contractor's expense shall replace any of these points, which are disturbed or destroyed by the Contractor.
- 22.2.** Contractor shall employ a competent Engineer or Land Surveyor licensed in the State of Florida familiar with construction control procedures to lay out all other parts of the work, and to establish all points, grades and levels necessary to locate the work. The Contractor shall be held responsible for all mistakes that may be caused by his incorrect layout and grade spotting work, or caused by the loss or disturbance of the Engineer's layout work.
- 22.3.** Should the Contractor in the course of the work find that the points, grades, and levels which are shown upon the Drawings are not conformable to the physical conditions of the locality at the proposed work or structure, he shall immediately inform the Engineer of the discrepancy between the actual physical conditions of the locality of the proposed work, and the points, grades and levels which are shown on the Drawings. No claim shall be made by the Contractor against the Owner for compensation or damage by reasons for failure of the Engineer to represent upon said Drawings, points, grades and levels conformable to the actual physical conditions of the locality of the proposed work.

Section 23. TESTS AND INSPECTIONS

- 23.1.** County, its respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide County with timely notice of readiness of the Work for all required inspections, tests or approvals.
- 23.2.** If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish County the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the County.
- 23.3.** If any Work that is to be inspected, tested or approved is covered without written concurrence from the County, such work must, if requested by County, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given County timely notice of Contractor's intention to cover the same and County has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from County, such Work must, if requested by County, be uncovered for County's observation and be replaced at Contractor's sole expense.
- 23.4.** Neither observations by the County nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with

the Contract Documents.

- 23.5.** Prior to payment for any Work for which testing is specified, Contractor shall provide the County a copy of reasonably acceptable test results relating to such work as required by the technical specifications of the solicitation.

Section 24. DEFECTIVE WORK

- 24.1.** Work not conforming to the requirements of the Contract Documents shall be deemed defective Work. If required by County, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by County, remove it from the site and replace it with acceptable Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold County harmless for same.
- 24.2.** If the County considers it necessary or advisable that covered Work be observed by County or inspected or tested by others, Contractor, at County's request, shall uncover, expose or otherwise make available for observation, inspection or tests as County may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and County shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.
- 24.3.** If any portion of the Work is defective, or Contractor fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, County may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County to stop the Work shall not give rise to any duty on the part of County to exercise this right for the benefit of Contractor or any other party.
- 24.4.** Should the County determine, at its sole opinion, it is in the County's best interest to accept defective Work, the County may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the County's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the County accepts such defective Work after final payment, Contractor at the discretion of the County shall promptly pay County an appropriate amount to adequately compensate County for its acceptance of the defective Work or shall increase in the Work's warranty period beyond two (2) years.
- 24.5.** If Contractor fails, within a reasonable time after the written notice from County, to correct defective Work or to remove and replace rejected defective Work as required by

County, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, County may, after seven (7) days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable County to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of County in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

Section 25. SUPERVISION AND SUPERINTENDENTS

- 25.1.** Contractor shall supervise 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 responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent acceptable to the County, who shall not be replaced without prior written notice to County except under extraordinary circumstances. The resident superintendent shall possess Florida Department of Transportation approved training and certifications applicable to the Work, including but not limited to National Pollutant Discharge Elimination System (NPDES) Stormwater Management and Maintenance of Traffic Control Devices. The superintendent shall be Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. County shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

Section 26. PROTECTION OF WORK

- 26.1.** Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor, or any one for whom Contractor is legally liable, is responsible for any loss or damage to the Work, or other work or materials of County or County's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.
- 26.2.** 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 property to stresses or pressures that will endanger it.

Section 27. EMERGENCIES

- 27.1.** In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from County is obligated to act to prevent threatened damage, injury or loss. Contractor shall give County written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the County determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

Section 28. USE OF PREMISES

- 28.1.** Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.
- 28.2.** Contractor shall provide and maintain in a neat, sanitary condition such accommodation for the use of his employees as may be necessary to comply with the regulations of the State Board of Health or other bodies having jurisdiction. He shall commit no public nuisance.

Section 29. SAFETY

- 29.1.** The Contractor shall designate in writing the individual responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- 29.1.1.** All employees of the Work and other persons and/or organizations who may be affected thereby;
- 29.1.2.** All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and
- 29.1.3.** Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.

- 29.2.** The Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by County has occurred.
- 29.3** The Contractor shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by the Contractor to the County.
- 29.4** The Contractor shall adhere at all times to the minimum safety guidelines for construction and renovation projects as set out in Exhibit C of this Agreement.

Section 30. PROJECT MEETINGS

Prior to the commencement of Work, the Contractor shall attend a pre-construction conference with the County to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the County with respect to the Project, when directed to do so by County. Contractor shall have its subcontractors and suppliers attend all such meetings (including the pre-construction conference) as may be directed by the County.

EXHIBIT B
PERFORMANCE AND PAYMENT BOND

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

(Insert name, address, and phone number of contractor), as Principal, and

_____, (Insert full name, home office address and phone number of surety) as Surety, are held and firmly bound unto the Board of County Commissioners for Escambia County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, as Obligee in the sum of

_____ Dollars (\$_____), for the payment whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Principal has entered into a contract dated as of the _____ day of _____, 20____, with Obligee for Contract No. _____,

(Insert name of project, including legal description, street address of property and general description of improvement) in accordance with drawings and specifications, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract; and
3. Performs the guarantee of all work and materials furnished under the Contract applicable to the work and materials, then this bond is void; otherwise it remains in full force; and
4. Principal understands and agrees that this bond shall remain in full force and effect throughout the two (2) year warranty period after substantial completion of the work.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond.

In no event will the Surety be liable in the aggregate to Obligor for more than the penalty sum of this Performance Bond, regardless of the number of suits that may be filed by Obligor.

IN WITNESS WHEREOF, the above parties have executed this instrument this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these premises duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____
Name: _____
Its: _____

Witnesses as to Principal

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)
Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

ATTEST:

SURETY: _____
(Printed Name)

Witness

(Business Address)

Witness

(Authorized Signature)

(Printed Name)
OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____
COUNTY OF _____

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

_____ as Surety, on behalf of Surety. He/she is personally known to me
OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

BOND NO. _____

PAYMENT BOND

BY THIS BOND, We, _____

(Insert name, address and phone number of contractor)

(hereinafter called the "Principal") and

_____ (hereinafter called the "Surety"),

(Insert name)

located at _____, a surety insurer

(Insert address and phone number)

chartered and existing under the laws of the State of _____ and authorized to do business

in the State of Florida, are held and firmly bound unto the Board of County Commissioners for Escambia

County, Florida, 221 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, (hereinafter called

the "County") in the sum of _____ (\$ _____) for

payment of which we bind ourselves, our heirs, our personal representatives, our successors and our assignees, jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement relating to Contract No. _____

(hereinafter referred to as the "Contract") as of _____ (the bid award date for projects thereto)

for the purpose of _____

(Insert name of project, including legal description, street address of property and general description of improvement.)

said Contract being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Performs the contract dated _____, _____, between Principal and County for construction of _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all loses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that the County sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

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.

BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the County of any extension of time for the performance of the said Contract, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to Section 255.05, Florida Statutes.

THIS BOND DATED THE _____ DAY OF _____, 20____ (the date of issue by the Surety or by the Surety's agent and the date of such agents power-of-attorney).

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation.

He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

Notary Public, State of _____

(AFFIX OFFICIAL SEAL)

Serial No., If Any: _____

ATTEST:

SURETY: _____

(Printed Name)

Witness

(Business Address)

(Authorized Signature)

Witness

(Printed Name)

OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____

COUNTY OF _____

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

_____ as Surety, on behalf of Surety. He/she is personally known to me

OR has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT C
INSURANCE AND SAFETY

INSURANCE - BASIC COVERAGES REQUIRED

The Contractor shall procure and maintain the following described insurance, except for coverages specifically waived by the County. Such policies shall be from insurers with a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Such on policies shall provide coverages for any or all claims which may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of the Contract Documents, whether such services, work and operations be by the Contractor, its employees, or by subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

The Contractor shall require, and shall be responsible for assuring throughout the time the Agreement is in effect, that any and all of its subcontractors obtain and maintain until the completion of that subcontractor's work, such of the insurance coverages described herein as are required by law to be provided on behalf of their employees and others.

The required insurance shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

These insurance requirements shall not limit the liability of the Contractor. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor's interests or liabilities, but are merely minimums.

Except for workers compensation and professional liability, the Contractor's insurance policies shall be endorsed to name Escambia County as an additional insured to the extent of its interests arising from this agreement, contract or lease.

The Contractor waives its right of recovery against the County, to the extent permitted by its insurance policies.

The Contractor's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Contractor is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Contractor or any other insurance of the Contractor shall be considered primary, and insurance of the County, if any, shall be considered excess, as may be applicable to claims obligations, which arise out of this agreement, contract or lease.

Workers Compensation Coverage

The Contractor shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease, or a valid certificate of exemption issued by the state of Florida, or an affidavit in accordance with the provisions of Florida Workers Compensation law.

Contractor shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile And Excess Or Umbrella Liability Coverage

The Contractor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage coverages, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Contractor is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages. Umbrella coverage shall drop down to provide coverage where the underlying limits are exhausted.

Evidence/Certificates of Insurance

Required insurance shall be documented in Certificates of Insurance. If and when required by the County, Certificates of Insurance shall be accompanied by documentation that is acceptable to the County establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of each insurance company underwriting the insurance coverages(s) indicated on each Certificate of Insurance.

New Certificates of Insurance are to be provided to the County at least 30 days prior to coverage renewals. Failure of the Contractor to provide the County with such renewal certificates may be considered justification for the County to terminate this agreement, contract or lease.

Certificates should contain the following additional information.

1. Indicate that Escambia County is an additional insured on the general liability policy.
2. Include a reference to the project and the Office of Purchasing number.

3. Disclose any self-insured retentions in excess of \$1,000.
4. Designate Escambia County as the certificate holder as follows:
Escambia County
Attention: _____
Office of Purchasing
P.O. Box 1591
Pensacola, FL 32597-1591
Fax (850) 595-4805
5. Indicate that the County shall be notified at least 30 days in advance of cancellation.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein.

If requested by the County, the Contractor shall furnish complete copies of the Contractor's insurance policies, forms and endorsements, and/or such additional information with respect to its insurance as may be requested.

For Commercial General Liability coverage the Contractor shall, at the option of the County, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

ENDORSEMENTS/ADDITIONAL INSURANCE

If checked below, the County requires the following endorsements or additional types of insurance.

☐ **TERMINATION/ADVERSE CHANGE ENDORSEMENT**

All of Contractor's policies, except for professional liability and workers compensation insurance, are to be endorsed, and the Contractor's Certificate(s) of Insurance shall state, that the County shall be notified at least 30 days in advance of cancellation, non-renewal or adverse change.

☐ **PROPERTY COVERAGE FOR LEASES**

The Contractor shall procure and maintain for the life of the lease, all risk/special perils (including sinkhole) property insurance (or its equivalent) to cover loss resulting from damage to or destruction of the building and personal property/contents. The policy shall cover 100% replacement cost, and shall include an agreed value endorsement to waive coinsurance.

Coverage shall also include continued full payment of rents to the County for up to one year after damage or destruction of the property

☐ **COMMERCIAL GENERAL LIABILITY COVERAGE PROJECT AGGREGATE**

Because the Commercial General Liability form of coverage includes an annual aggregate limitation on the amount of insurance provided, a separate project aggregate limit of \$_____ is required by the County for this agreement or contract.

☐ **LIQUOR LIABILITY**

In anticipation of alcohol being served, the Contractor shall provide evidence of coverage

for liquor liability in an amount equal to the general/umbrella/excess liability coverage. If the general liability insurance covers liquor liability (e.g. host or other coverage), the Contractor's agent or insurer should provide written documentation to confirm that coverage already applies to this agreement, contract or lease. If needed coverage is not included in the general/umbrella/excess liability policy(ies), the policy(ies) must be endorsed to extend coverage for liquor liability, or a separate policy must be purchased to provide liquor liability coverage in the amount required.

☐ **OWNERS PROTECTIVE LIABILITY COVERAGE**

For renovation or construction contracts the Contractor shall provide for the County an owners protective liability insurance policy (preferably through the Contractor's insurer) in the name of the County.

This is redundant coverage if the County is named as an additional insured in the Contractor's Commercial General Liability insurance policy. However, this separate policy may be the only source of coverage if the Contractor's liability coverage limit is used up by other claims.

☐ **BUILDERS RISK COVERAGE**

Builders Risk insurance is to be purchased to cover subject property for all risks of loss, subject to a waiver of coinsurance, and covering off-site storage, transit and installation risks as indicated in the Installation Floater and Motor Truck Cargo insurance described hereafter, if such coverages are not separately provided.

The Builders Risk insurance is to be endorsed to cover the interests of all parties, including the County and all contractors and subcontractors. The insurance is to be endorsed to grant permission to occupy.

☐ **INSTALLATION FLOATER COVERAGE**

Installation Floater insurance is to be purchased when Builder's Risk insurance is inappropriate, or when Builder's Risk insurance will not respond, to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The amount of coverage should be adequate to provide full replacement value of the property, repairs, additions or equipment being installed, otherwise being handled or stored on or off premises. All risks coverage is preferred.

☐ **MOTOR TRUCK CARGO COVERAGE**

If the Installation Floater insurance does not provide transportation coverage, separate Motor Truck Cargo or Transportation insurance is to be provided for materials or equipment transported in the Contractor's or other vehicles from place of receipt to building sites or other storage sites. All risks coverage is preferred.

☐ **CONTRACTOR'S EQUIPMENT COVERAGE**

Contractor's Equipment insurance is to be purchased to cover loss of equipment and machinery utilized in the performance of work by the Contractor. All risks coverage is preferred.

☐ **FIDELITY/DISHONESTY COVERAGE - FOR EMPLOYER**

Fidelity/Dishonesty insurance is to be purchased to cover dishonest acts of the

Contractor's employees, including but not limited to theft of vehicles, materials, supplies, equipment, tools, etc., especially property necessary to work performed.

☐ **FIDELITY/DISHONESTY/LIABILITY COVERAGE - FOR COUNTY**

Fidelity/Dishonesty/Liability insurance is to be purchased or extended to cover dishonest acts of the Contractor's employees resulting in loss to the County.

☐ **GARAGE LIABILITY COVERAGE**

Garage Liability insurance is to be purchased to cover the Other Party and its employees for its garage and related operations while in the care, custody and control of the County's vehicles.

☐ **GARAGEKEEPERS COVERAGE (LEGAL LIABILITY FORM)**

Garagekeepers Liability insurance is to be purchased to cover the Other Party's liability for damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds only when the Other Party is legally liable for the loss.

☐ **GARAGEKEEPERS COVERAGE (DIRECT-EXCESS FORM)**

Garagekeepers Liability insurance is to be purchased to cover damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds on a legal liability basis, and also without regard to legal liability on an excess basis over any other collectible insurance.

☐ **WATERCRAFT LIABILITY COVERAGE**

Because the Contractor's provision of services involves utilization of watercraft, watercraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any watercraft, including owned, non-owned and hired.

Coverage may be provided in the form of an endorsement to the general liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity.

☐ **UNITED STATES LONGSHOREMEN AND HARBORWORKERS ACT COVERAGE**

The Workers Compensation policy is to be endorsed to include United States Longshoremen and Harborworkers Act Coverage for exposures, which may arise from this agreement or contract.

☐ **JONES ACT COVERAGE**

The Workers Compensation policy is to be endorsed to include Jones Act Coverage for exposures, which may arise from this agreement or contract.

☐ **AIRCRAFT LIABILITY COVERAGE**

Because the Contractor's provision of services involves utilization of aircraft, aircraft liability coverage must be provided to include bodily injury and property damage arising

out of ownership, maintenance or use of any aircraft, including owned, non-owned and hired.

The minimum limits of coverage shall be \$____,000,000 per occurrence, Combined Single Limit for Bodily Injury (including passenger liability) and Property Damage.

☐ **POLLUTION/ENVIRONMENTAL IMPAIRMENT LIABILITY COVERAGE**

Pollution/environmental impairment liability insurance is to be purchased to cover pollution and/or environmental impairment, which may arise from this agreement or contract.

☐ **PROFESSIONAL LIABILITY/MALPRACTICE/ERRORS OR OMISSIONS INSURANCE**

Contractor shall purchase and maintain Professional Liability or malpractice or errors or omissions insurance coverage with a minimum limit of \$1,000,000, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

MINIMUM PROJECT SAFETY REQUIREMENTS

The following safety requirements represent the minimum condition, which shall be met by all Contractors and subcontractors performing work for Escambia County: Reported or observed violations of Federal and State laws and regulations, or County ordinances shall be brought to the attention of the County project manager and County's Department of Safety and Risk Services and shall be immediately corrected by the Contractor. Additionally, the County may order work to be stopped if conditions exist that present immediate danger to persons or property. The Contractor acknowledges that any such stoppage will not shift responsibility for any damages from the Contractor to the County. Failure to comply with required safety procedures shall result in the suspension of the Work of the Contractor until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Contractor may be referred by the County's Department of Safety and Risk Services for inspection or interpretation. The Contractor shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

- (1) Prior to the commencement of the project, the Contractor and all subcontractors shall provide to the County a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.
- (2) The Contractor shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including County and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Contractor representative or by the project manager or designee.
- (3) The Contractor shall provide all necessary safety equipment for County staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Contractor or required by State or Federal safety regulations.
- (4) Construction vehicles on the work site shall always be operated in a safe manner. The Contractor shall take appropriate action to ensure the safety of County staff, visitors, and the general public while operating work vehicles at a "controlled" construction site. Where conditions warrant, or at the request of the County, temporary barriers shall also be established for these traffic areas.
- (5) The Contractor shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to County staff, visitors, or the general public. At a minimum, the project site shall be posted with the appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: THIS AREA IS A DESIGNATED CONSTRUCTION SITE; ANYONE TRESPASSING ON THIS PROPERTY SHALL, UPON CONVICTION, BE GUILTY OF A FELONY; "A DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY," and other general safety warning signs, i.e., "HARD HAT AREA,"

as are deemed necessary by the Contractor and project manager.

- (6) In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the County safety Office. Alternative measures may include, but are not limited to, working during “off” hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the County).
- (7) The Contractor shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the County’s Department of Safety and Risk Services and the appropriate life safety code inspector), shall the life safety code components of an occupied facility be reduced or otherwise compromised.

A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Contractor shall communicate with each subcontractor and County’s Department of Safety and Risk Services as to scheduling of events that may pose hazards or inconveniences to building occupants. The Contractor shall also ensure that appropriate scheduling information is also conveyed to the project manager.

- When a project alters a building’s fire protection compartment features, such as fire barriers, smoke barriers, or corridor walls, exits must provide free and unobstructed egress. Employees shall receive notice if any alternative exits have been designated. Buildings or areas under construction must maintain escape egress for construction workers at all times. These means of egress shall be inspected daily by the Contractor.
 - When a project affects fire alarms, fire detection, or fire suppression systems, of a building that is occupied, the Contractor must ensure that such systems are not functionally impaired. Any temporary systems, which are installed, must be inspected and tested monthly by the Contractor. Employees must be notified when such temporary systems are in place.
 - When any sources of ignition are present, such as welding torches, smoking by all persons shall be prohibited on any construction site and in any County facility.
- (8) Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Contractor to adhere to the following guidelines at a minimum:
 - (a) The Contractor shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The

Contractor shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the County's Department of Safety and Risk Services. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.

- (b) Material Safety Data Sheets (MSDS) shall be provided to the County's Department of Safety and Risk Services for all hazardous substances used on the project or brought on the job site. These products include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.
- (c) Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Contractor shall also determine whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Contractor.
- (d) The Contractor should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.
- (9) The Contractor shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing County 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.
- (10) The Contractor agrees and understands that all County construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or County regulatory agencies.
- (11) The Contractor shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Contractor shall ensure that these containers are subsequently emptied on a regular basis.
- (12) Water runoff and soil erosion from the project site shall be controlled by the Contractor pursuant to the regulations of the Florida Department of Environmental Protection.
- (13) Water-based paint and stain products shall be used by the Contractor in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior written approval from the County's Department of Safety and Risk Services shall be

obtained before their use.

- (14) The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior written approval for use of these metals shall be obtained by the Contractor from the County's Department of Safety and Risk Services.
- (15) The use of any radioactive materials by the Contractor on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Contractor to the project manager and County's Department of Safety and Risk Services for review.
- (16) The County contracts out the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement contractors. General contractors, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Contractors who encounter such materials shall immediately stop work and notify the project manager and the County's Department of Safety and Risk Services.
- (17) The above-cited guidelines represent minimum expectations and actions, which shall be taken by Contractors while under contract for County construction and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager and County's Department of Safety and Risk Services.

EXHIBIT D
RELEASE AND AFFIDAVIT

COUNTY OF ESCAMBIA
STATE OF FLORIDA

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

- (1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Contractor") releases and waives for itself and its subcontractors, material men, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Board of County Commissioners of Escambia County, Florida, ("County") relating in any way to the performance of the Agreement between Contractor and County dated _____, 20____, for the period from _____ to _____.
- (2) Contractor certifies for itself and its subcontractors, material men, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.
- (3) Contractor agrees to indemnify, defend and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against the County arising out of the performance by Contractor of the Work covered by this Release and Affidavit.
- (4) This Release and Affidavit is given in connection with Contractor's (monthly/final) Application for Payment No. _____.

CONTRACTOR:

By: _____

Its: _____ President

Date: _____

Witnesses

[Corporate Seal]

**STATE OF FLORIDA
COUNTY OF ESCAMBIA**

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT E
FORM OF CONTRACT APPLICATION FOR PAYMENT

- AIA DOCUMENT #G702, 1992 EDITION
- AIA DOCUMENT #G703, 1992 EDITION

SAMPLE

EXHIBIT F
CONSTRUCTION CHANGE ORDER

Change Order Number _____

Contract Number PD _____

Date: _____

Dated _____

To: _____

Project Name: _____

You hereby are authorized and directed to make the following changes in accordance with terms and conditions of the Agreement:

Describe changes here;

	Dollars	Time in Calendar Days
Original Contract Amount	\$ _____	_____
Sum of Previous Changes	\$ _____	_____
This Change Order	\$ _____	_____

Adjusted Agreement Amount	\$ _____	_____

The contract substantial completion date will be **increased/decreased** by ____ calendar days due to this Change Order. The new contract substantial completion date is _____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay cost.

The Contract Administrator has directed the Contractor to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or greater value Change Order.

☐ Check if applicable and provide written confirmation from the bonding company/agent

(attorney-in-fact) that the amount of the Performance and Payment bonds have been adjusted to 100% of the new contract amount.

Accepted: _____, 20____

By: _____

Contractor

By: _____

Engineer

By: _____

Owner

SAMPLE

EXHIBIT G
PAYMENT ADJUSTMENT - BITUMINOUS MATERIALS.

1. The bid unit price for Bituminous Material will be adjusted to reflect changes, both increases and decreases, in the Asphalt Index price of bituminous material from that in effect during the month in which bids were received for this contract. The Contractor will not be given the option to reject this cost adjustment of Bituminous Materials. This adjustment will be made in accordance with the following criteria:
 - 1.1. Price adjustments will apply only to the price of bituminous material F. O. B. manufacturer's asphalt terminal and will not reflect variations in the cost of transportation from the terminal to the job site.
 - 1.2. Price adjustments will be made for all bituminous material incorporated into asphalt pavement whether paid for under a separate bid item or under other items, which include the cost of bituminous material.
 - 1.3. Price adjustments will not be made until the semi-final or final payment is made on the contract. The bid unit price for bituminous material will be used in preparing monthly progress payments.
 - 1.4. No price adjustment reflecting any further increases in the cost of bituminous material will be made for any month after expiration of the allowable contract time, including any extensions that may be granted.
 - 1.5. The adjusted unit price shall be calculated for the month during which the material was incorporated into the project in accordance with the following formula:

$P_a = P_b X (I_d - I_b)$ where:

P_a = Adjusted unit price for Bituminous Material. (To be calculated separately for each month during which bituminous material is used and will reflect an increased or decreased price.)

P_b = Bid unit price for Bituminous Material.

I_d = Asphalt Price Index during the month in which the material is incorporated into the project.

I_b = Asphalt Price Index during the month in which bids were received for this contract.
 - 1.6. The County will determine the Asphalt Price Index for each month. The Index shall be determined by averaging quotations in effect on the first day of the month at all terminals, which could reasonably be expected to furnish bituminous material to projects in the State of Florida.
 - 1.7. A price adjustment will be made only when the current Asphalt Price Index varies by 5% or more from the Index that was applicable when bids were received or 5% or more from when the last previous adjustment was made.

The Asphalt Price Index to be used by the County will be that used by the Florida Department of Transportation, as available from them after the 15th of each month.

**STANDARD CONSTRUCTION
CONTRACT DOCUMENTS**

FOR

**AGREEMENT BETWEEN
ESCAMBIA COUNTY**

AND

FORM I: Bridges, Docks and Boat Ramps

(Revised 2013)

STANDARD CONSTRUCTION CONTRACT DOCUMENTS
FORM I

TABLE OF CONTENTS

SAMPLE

AGREEMENT

This is an Agreement between Escambia County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, its successors and assigns, with its administrative offices located at 221 Palafox Place, Pensacola, Florida 32501, (hereinafter referred to as "County,") and _____, a for-profit corporation, authorized to do business in the State of Florida, its successors and assigns, whose federal identification number is _____, and whose business address is, _____, (hereinafter referred to as "Contractor").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the County and the Contractor agree as follows:

SECTION 1. CONTRACT DOCUMENTS.

1.1 The Contract Documents include this Agreement, including Amendments and Exhibits, the Exhibits described in Section 6, Change Orders, Work Directive Changes, Field Orders and the solicitation documents, including addenda. The Contract Documents are incorporated by reference and made a part of this Agreement. A copy of all Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of any Work performed pursuant to this Agreement.

1.2 In case of any inconsistency or conflict among the provisions of this Agreement and any other terms and conditions of any documents comprising the Contract Documents, the provisions of the Agreement shall control. Concerning the Contract Documents, the order of precedence shall be as follows: 1) the Agreement, including Amendments and Exhibits; 2) Change Orders; 3) Work Directive Changes; 4) Field Orders; 5) the Solicitation Documents, including addenda. The Contract Documents listed above represent the entire and integrated agreement between the parties hereto, and supersede prior negotiations, representations, or agreements, either written or oral.

SECTION 2. SCOPE OF WORK

2.1 Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good workmanlike manner the Scope of Work assigned to the Contractor.

2.2 The basic Scope of Work to be performed under this Agreement is to provide for "Miscellaneous Bridge, Dock, and Boat Ramp repairs and construction" for projects within Escambia County, Florida, per the Florida Department of Transportation "Standard Specifications for Road and Bridge Construction" (current edition) and the "Escambia County Bridge, Dock, and Boat Ramp Specification Guide" (current edition) and, unless otherwise specifically excluded from any particular purchase order, all Work shall comport with County guidelines for construction, rehabilitation and renovation of projects, and local ordinances, State, and Federal laws and regulations.

SECTION 3. ORDERING OF THE WORK

3.1 The Contractor is one of several firms selected to perform work on same or similar terms pursuant to this Agreement. The County expressly reserves the exclusive right to assign specific purchase orders to the firm it deems best suited for the type of work to be accomplished. This Agreement does not guarantee any amount or type of work to be assigned to the Contractor.

3.2 When requested by the County, the Contractor will provide a bid to the County to perform the work requested under a scope of work, and the County shall select the most responsive bidder to perform the work.

3.3 The County will issue a purchase order to the Contractor which describes the work to be provided by the Contractor and the amount of compensation to be provided by the County.

SECTION 4. BONDS.

4.1 Where the Contract Amount is in excess of \$250,000.00 and/or at the County's request, Contractor shall provide at its expense Performance and Payment Bonds, in the form prescribed in Exhibit B, in the amount of 100% of the Contract Amount. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to County; provided; however, the surety shall be rated as "A-" (excellent) or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holder's surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.

4.2 If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Document, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval. Failure by Contractor to maintain its bonds in full force and effect at all times, including the warranty period, shall be grounds for termination of this Contract.

4.3 Pursuant to §255.05, Florida Statutes, the Contractor shall be required to execute and record Performance and Payment Bonds. The bonds must state the name and principal business address of both the Principal and the Surety and a description of the project sufficient to identify it. (The filing costs are \$10.00 for the first page and \$8.50 for each remaining page).

SECTION 5. CONTRACT TIME AND LIQUIDATED DAMAGES.

5.1 Time is of the essence in the performance of any Work assigned under this Agreement. Contractor shall commence the Work within ten (10) calendar days from the Commencement Date, established in the Notice to Proceed. No Work shall be performed at a Project site prior to the Commencement Date. Contractor shall provide 48 hours notice prior to beginning Work.

5.2 County and Contractor recognize that, since time is of the essence for this Agreement, the County will suffer financial loss if Work is not substantially completed within the time specified. Should Contractor fail to substantially complete the Work within the agreed time period, County shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed by the County on the date that the County's representative certifies in writing that the construction of the Project, or specified part thereof, is sufficiently completed in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended. Along with such certification, the Architect shall compile a "punch list" of any remaining exceptions that do not adversely affect the use of the Project. Completion of these items will be required prior to final payment.

5.3 Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the County's actual damages at the time of contracting if Contractor fails to substantially complete the Work in accordance with the progress schedule.

5.4 When any period of time is referenced to by days herein, it shall be computed to exclude the first day 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 shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

SECTION 6. EXHIBITS INCORPORATED.

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Exhibit A:	General Terms and Conditions
Exhibit B:	Form of Performance and Payment Bonds
Exhibit C:	Insurance and Safety Requirements
Exhibit D:	Form of Release and Affidavit
Exhibit E:	Form of Contractor Application for Payment
Exhibit F:	Form of Change Order
Exhibit G:	Technical Specifications
Exhibit H:	Plans & Standard Details prepared by or for County and Identified as follows:
Exhibit I:	Federal Documents (if applicable)
Exhibit J:	Solicitation Documents Index

SECTION 7. COMPENSATION AND METHOD OF PAYMENT

7.1 COMPENSATION:

Contractor shall be compensated for satisfactory completion of work performed pursuant to an assigned scope of work in accordance with this Agreement. Individual purchase orders submitted to the Contractor will be paid through a budget line item recommended by Staff and approved by the Board of County Commissioners. For each such purchase order, the Contractor will be compensated by a lump sum fee, unless otherwise mutually agreed to by the parties hereto.

7.2 ANNUAL APPROPRIATION:

Pursuant to the requirements of Florida law and Article II of Chapter 46, Escambia County Code of Ordinances, the County's performance and obligation to fund this Agreement shall be contingent upon an annual appropriation by the Escambia County Board of County Commissioners.

7.3 Payment requisitions will be sent to:

Robin Lambert
Account Manager
Enginvoices@myescambia.com
(850) 595-3412 (phone)

Notices will be sent to:

County Administrator
Escambia County Administrator
221 Palafox Place
Pensacola, Florida 32502
(850) 595-4900 (phone)
(850) 595-4908 (fax)

7.4 Payments and notices will be made to the Contractor at:

(Principle Name & Title)
(Consulting Firm's Name)
(Address)
(City, State, Zip)

(a) Any notice required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or other private courier service, such as Federal Express.

(b) Unless otherwise notified in writing of a new address, notices, payments, and invoices shall be made to each party at the listed addresses. Rejection, or other refusal by the addressee to accept, or the inability of the courier service, or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

SECTION 8. MISCELLANEOUS PROVISIONS

8.1 RECORDS:

(a) The Contractor shall keep such records and accounts and shall require any subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement and any expenses for which the Contractor expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by the County, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the County of any fees or expenses based upon such entries.

(b) The Contractor acknowledges that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the Contractor fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any right or remedy and after giving the Contractor and its surety, if any, seven (7) days written notice, during which period the Contractor still fails to allow access to such documents, terminate the employment of the Contractor. In such case, the Contractor shall not be entitled to receive any further payment. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Contractor (excluding monies owed the Contractor for subcontractor work).

8.2 SUBCONTRACTORS: In the event the Contractor, during the course of any work performed under this Agreement, requires the services of any subcontractors or other professional associates in connection with work performed under this Agreement, the Contractor must secure the prior written approval of the County unless such work is specifically detailed in the purchase order.

8.3 REPRESENTATIVE OF COUNTY AND CONTRACTOR:

(a) It is recognized that questions in the day-to-day conduct of the project will arise. The Contract Administrator, upon request by the Contractor, shall designate and shall advise the Contractor in writing, persons to whom all communications pertaining to the day-to-day conduct of the project shall be addressed.

(b) The Contractor shall inform the Contract Administrator in writing of the representative of the Contractor to whom matters involving the conduct of the project shall be addressed.

8.4 HEADINGS: Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

8.5 SURVIVAL: All other provisions which, by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

8.6 MODIFICATION: No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

8.7 SUCCESSORS AND ASSIGNS: Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

8.8 GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any matter which is a subject of this Agreement shall be in the County of Escambia.

8.9 INTERPRETATION: For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

(a) If the Consultant discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the Consultant shall immediately notify the County and request clarification of the County's interpretation of this Agreement.

(b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

8.10 SEVERABILITY: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

8.11 FURTHER DOCUMENTS: The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.

8.12 NO WAIVER: The failure of the Contractor or the County to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

8.13 ENTIRE AGREEMENT: Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the

same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Escambia County, Florida through its Board of County Commissioners, signing by its County Administrator, duly authorized to execute this Agreement through the express delegation of authority set forth in Article II of Chapter 46, Escambia County Code of Ordinances, and (Firm's Name), signing by and through its President, duly authorized to execute same.

COUNTY:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

WITNESS: _____

By: _____

WITNESS: _____

Date: _____

BCC Approved: _____

CONTRACTOR:

(Firm's Name), a for-profit corporation authorized to do business in the State of Florida.

By: _____
President

ATTEST: Corporate Secretary

By: _____
Secretary
[CORPORATE SEAL]

Date: _____

(Form I)

EXHIBIT A
GENERAL TERMS AND CONDITIONS

Section 1. INTENT OF CONTRACT DOCUMENTS

- 1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents, as being required to produce the intended result shall be supplied whether or not specifically called for. When words, which have a well-known technical or trade meaning, are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the Work is performed, except as may be otherwise specifically stated herein.
- 1.2. If, during the performance of the Work, Contractor discovers a conflict, error or discrepancy in the Contract Documents, Contractor immediately shall report same to County and before proceeding with the Work affected thereby shall obtain an interpretation or clarification from the County. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.
- 1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the County. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.
- 1.4. "Engineer", where referenced on the drawings or in the specifications or in other related documents, shall mean the Escambia County Engineer or the designated representative thereof.

Section 2. INVESTIGATION AND UTILITIES

- 2.1. Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal,

handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quality of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

- 2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Where Utilities block construction, Contractor shall aggressively pursue relocation by the Utility owners. Contractor shall immediately notify the County of any delays due to Utilities blockage and document all attempts to resolve such blockage. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

Section 3. SCHEDULE

- 3.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to County, for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule shall relate to all Work required by the Contract Documents and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work and shall include dates of Shop Drawing Submittals.
- 3.2. The Progress Schedule shall be updated monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the County's review and approval. Contractor shall submit the updates to the Progress Schedule with its Applications for Payment noted below. The County's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the County's obligation to pay Contractor.

Section 4. PROGRESS PAYMENTS

- 4.1. Prior to submitting its first Application for Payment, Contractor shall submit to County, for its review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the County, this schedule of values shall be used as the basis for the Contractor's Applications for Payment. This schedule shall be updated and submitted along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit E.
- 4.2. Prior to submitting its first Monthly Application for Payment, Contractor shall submit to

County a complete list of all its proposed subcontractors and material men, showing the work and materials involved. The first Application for Payment shall be submitted no earlier than thirty (30) days after Commencement Date.

- 4.3.** If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by the County in writing, the Application for Payment will subdivide the work into component parts in sufficient detail to serve as the basis for a progress payment and shall also be accompanied by a bill of sale, invoice or other documentation warranting that upon payment by County, the County shall receive the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect County's interest therein, all of which shall be subject to the County's prior written approval.
- 4.4** Contractor shall submit one electronic copy of each of its Applications for Payment to the County on or about the 25th day of each month for work performed during that month. Contractor shall submit no more than one application for payment each month. Within ten (10) calendar days after receipt of each Application for Payment, the County shall either: (1) indicate approval of the requested payment; (2) indicate approval of only a portion of the requested payment, stating in writing the reasons therefore; or (3) return the Application for Payment to the Contractor indicating, in writing, the reason for refusing to approve payment. In the event of a total or partial denial of the Application for Payment by the County, the Contractor may make the necessary corrections and resubmit the Application for Payment for reconsideration within ten (10) calendar days of receiving notice of refusal.

If re-submittal of the Application for Payment is refused, in whole or in part, the Contractor may submit a written request to the County Administrator for an administrative decision within two (2) business days of receiving notice of refusal. Upon receiving a timely request, an administrative decision shall be rendered within ten (10) calendar days with written notification provided to the Contractor.

If the administrative decision is disputed, the Contractor may submit a written request to the County Administrator for an administrative hearing before the Dispute Resolution Committee (DRC) within two (2) business days of receiving said decision. A hearing shall be scheduled within ten (10) business days from the date the request is received, and the Contractor will receive written notice of the hearing date. The DRC may, within its discretion, render a final decision at the hearing or may elect to mail a written decision within a period not to exceed ten (10) calendar days from the hearing date. The DRC's written decision shall be considered administratively final.

The County shall, within twenty (20) business days after County approval of an Application for Payment, pay the Contractor the amounts so approved. Provided, however, in no event shall the County be obligated to pay an amount greater than that portion of the Application for Payment approved by the County.

- 4.5** County shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof approved by the County for payment

whichever is less. The retained sum shall be accumulated and not released to Contractor until final payment is due. Any interim interest on such sums shall accrue to County.

- 4.6 Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.
- 4.7 Each Application for Payment shall be accompanied by Release and Affidavit, in the form attached as Exhibit D, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested or have been paid in full. The County shall not be required to make payment until and unless these affidavits are furnished by Contractor.
- 4.8 Applications for Payment will not be approved unless all submittals required by the Contract documents, up to that point, are provided and "As-Built" record documents are maintained as required by Section 8.2.

Section 5. PAYMENTS WITHHELD

- 5.1. The County may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The County may nullify the whole or any part of any approval for payment previously issued and County may withhold any payments otherwise due Contractor under this Agreement or any other agreement between County and Contractor, to such extent as may be necessary in the County's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents. If these conditions are not remedied or removed, County may, after three (3) days written notice, rectify the same at Contractor's expense. County also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to County, whether relating to or arising out of this Agreement or any other agreement between Contractor and County.

Section 6. FINAL PAYMENT

- 6.1. County shall make final payment to Contractor within forty- five (45) calendar days after the Work is finally inspected and accepted by County in accordance with Section 20.1 herein, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished County with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit D, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents or the County.
- 6.2. Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against County arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at

the time of the final Application for Payment. Neither the acceptance of the Work nor payment by County shall be deemed to be a waiver of County's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the County at the time of final inspection.

Section 7. SUBMITTALS AND SUBSTITUTIONS

- 7.1.** Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked, and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.
- 7.2.** Prior to submitting its first Application for Payment, Contractor shall provide to County a CD/DVD in digital format and/or photographs (as determined by the County Project Manager) showing the pre-existing conditions located within the limits of construction.
- 7.3.** Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by County if sufficient information is submitted by Contractor to allow the County to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by County from anyone other than Contractor and all such requests must be submitted by Contractor to County within thirty (30) calendar days after Notice to Proceed is received by Contractor.
- 7.4.** If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the County for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with County for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the County in evaluating the proposed substitute. The County may require Contractor to furnish at Contractor's expense additional

data about the proposed substitute.

- 7.5. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County, if Contractor submits sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the County shall be the same as those provided herein for substitute materials and equipment.
- 7.6. The County shall be allowed a reasonable time within which to evaluate each proposed substitute. The County shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the County's prior written acceptance, which shall be evidenced by either a Change Order or an approved Shop Drawing. The County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

Section 8. DAILY REPORTS, AS-BUILTS, AND MEETINGS

- 8.1. Unless waived in writing by County, Contractor shall complete and submit, along with its Application for Payment, to the County on a monthly basis a daily log of the Contractor's work for the preceding month in a format approved by the County. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:
 - 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work;
 - 8.1.2. Soil conditions which adversely affect the Work;
 - 8.1.3. The hours of operation by Contractor's personnel and subcontractor's personnel;
 - 8.1.4. The number of Contractor's and subcontractor's personnel present and working at the Project site, by subcontract and trade;
 - 8.1.5. All equipment present at the Project site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
 - 8.1.6. Description of Work being performed at the Project site;
 - 8.1.7. Any unusual or special occurrences at the Project site;
 - 8.1.8. Materials received at the Project site

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to County pursuant to the Contract Documents.

- 8.2.** Contractor shall maintain in a safe place at the Project site one record copy of the Contract Documents, as well as all shop drawings and other Contractor submittals and all written interpretations and clarifications issued by the County, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to County for reference. Upon completion of the Work, and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to County by Contractor.
- 8.3.** Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

Section 9. CONTRACT TIME AND TIME EXTENSIONS

- 9.1.** Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and material men, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.
- 9.2.** Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the County in writing within forty-eight (48) hours after the commencement of such delay. Written supporting data with specific details of Contractor operations, which were delayed, shall be submitted to the County within fifteen (15) calendar days after the occurrence of the delay, unless the County grants additional time in writing for such submittals, or else the Contractor shall be deemed to have waived any right which Contractor may have had to request a time extension.
- 9.3.** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which County may be

responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from County. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against County will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damages For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

9.4. Requests for delays due to adverse weather conditions shall meet all of the following conditions:

9.4.1. Contractor notified the County in writing within forty-eight (48) hours of the delay.

9.4.2. The weather was unusual as documented by supporting data.

9.4.3. The weather did have an adverse impact on the contractor's schedule (critical path only).

9.4.4. The Contractor and inspector's daily logs corroborate the adverse impact. Where a conflict exists between the weather data and the daily reports, the daily reports will take precedence.

Section 10. CHANGES IN THE WORK

10.1. County shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost and/or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of County, and County shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of County is authorized to direct any extra or changed work orally.

10.2. A Construction Change Order, in the form attached as Exhibit F to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and County concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as County and Contractor shall mutually agree.

10.3. If County and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by County in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by County. If Contractor disagrees with the County's adjustment determination, Contractor must make a claim pursuant to Section 11 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

- 10.4.** In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.
- 10.5.** County shall have the right to conduct an audit of Contractor's books and records to verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.
- 10.6.** The County shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the Contractor.

Section 11. CLAIMS AND DISPUTES

- 11.1.** A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between County and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- 11.2.** Claims by the Contractor shall be made in writing to the County within forty-eight (48) hours after the first day of the event giving rise to such Claim or else the Contractor shall be deemed to have waived the Claim. Written supporting data shall be submitted to the County within fifteen (15) calendar days after the occurrence of the event, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived the Claim. All claims shall be priced in accordance with the provisions of Subsection 10.4.
- 11.3.** The Contractor shall proceed diligently with its performance as directed by the County, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by the County in writing. County shall continue to make payments in accordance with the Contract Documents pending Claim.

Section 12. OTHER WORK

- 12.1.** County may perform other work related to the Project at the site by County's own forces, have other work performed by utility owners or let other direct contracts. If the fact that

such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Contractor. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact with specific details of anticipated costs and delays to County within forty-eight (48) hours of being notified of the other work. Written supporting data of actual need for additional time or additional expense, shall be submitted to the County within fifteen (15) calendar days after completion of other work, unless the County grants additional time in writing, or else the Contractor shall be deemed to have waived any right which Contractor may have had to request a time extension or adjustment to the Contract Amount.

- 12.2.** Contractor shall afford each utility owner and other contractor (or County, if County is performing the additional work with County's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the County and the others whose work will be affected.
- 12.3.** If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or County), Contractor shall inspect and promptly report to County in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

Section 13. INDEMNIFICATION AND INSURANCE

- 13.1.** Contractor shall pay on behalf of or indemnify and hold harmless County and its agents, officers and employees from and against all liabilities, damages, losses, and costs, including attorney's and paralegal fees, incurred by County to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor or resulting from the use by Contractor, or by anyone for whom Contractor is legally liable, of any materials, tools, machinery or other property of County. Contractor's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor or by any person, firm or corporation to whom any portion of the Work is subcontracted by Contractor, and Contractor shall not be required to pay on behalf of or indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's fees and paralegal fees.

County and Contractor agree one percent (1%) of the Contract Amount paid by County to Contractor shall be given as separate consideration for this indemnification, and any other indemnification of County by Contractor provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Contractor by Contractor's acceptance and execution of the Agreement.

Contractor agrees that such indemnification by Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any applicable statutes of limitations thereafter. Contractor's obligation to indemnify shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

- 13.2.** Contractor shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in Exhibit C to the Agreement. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and/or responsible risk retention group insurance companies, which are registered with the State of Florida. All commercial insurance carriers providing the Contractor with required insurance shall be a minimum financial size category of VII according to the AM Best Rating Guide, latest edition. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Within ten (10) calendar days after Notice of Award is received by Contractor and prior to the commencement of work, Contractor shall provide County with properly executed Certificates of Insurance to evidence Contractor's compliance with the insurance requirements of the Contract Documents. Said Certificates of Insurance shall be on forms approved by County, such as "Acord Form 25". The Certificates of Insurance shall be personally, manually signed by the authorized representatives of the insurance company/companies shown on the Certificates of Insurance, with proof that they are authorized representatives thereof. Certificates of Insurance shall be mailed to Escambia County in care of: Purchasing Manager, Purchasing Division, P.O. Box 1591, Pensacola, Florida 32597-1591. In addition, certified, true and exact copies of all insurance policies required hereunder shall be provided to County, on a timely basis, when requested by County.
- 13.3.** The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice by registered or certified mail shall be given County of any cancellation, intent not to renew, or reduction in the policies or coverages, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of any policy, Contractor shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.
- 13.4.** All insurance coverages of the Contractor shall be primary to any insurance or self-insurance program carried by the County applicable to this Project. The acceptance by County of any Certificate of Insurance does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Contract Documents. No work shall commence at the Project site unless and until the required Certificates of Insurance are received by the County.

- 13.5.** Contractor shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in Exhibit C, unless such insurance requirements for the subcontractor is expressly waived in writing by the County. All liability insurance policies, other than professional liability, worker's compensation and employer's liability policies, obtained by Contractor to meet the requirements of the Contract Documents shall name Escambia County as an additional insured and shall contain Severability of Interest provisions. Escambia County shall also be designated as certificate holder with the address of P. O. Box 1591, Pensacola, Florida 32597-1591. If any insurance provided pursuant to the Contract Documents expires prior to the completion of the Work, renewal Certificates of Insurance and, if requested by County, certified, true copies of the renewal policies shall be furnished by Contractor within thirty (30) days prior to the date of expiration.
- 13.6.** All liability policies shall be underwritten on the "occurrence" basis, unless otherwise approved in writing by the County Division of Risk Management. "Claims made" policies, if approved by the Risk Manager, and subsequent insurance certificates shall provide a "retro-date" which shall include the effective date of the contract. "Claims-made" renewals or carrier and policy replacements shall reflect the original "retro-date."
- 13.7.** Should at any time the Contractor not maintain the insurance coverages required herein, the County may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.
- 13.8.** Contractor shall submit to County a copy of all accident reports arising out of any injuries to its employees or those of any firm or individual to whom it may have subcontracted a portion of the Work, or any personal injuries or property damages arising or alleged to have arisen on account of any work by Contractor under the Contract Documents.
- 13.9.** Duty to Provide Legal Defense. Contractor shall pay for and provide a legal defense for the County, which shall include attorneys' fees and costs, both of which will be done only if and when requested by the County, for all liabilities, damages, losses, and costs as described in paragraph 13.1 above. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

14. COMPLIANCE WITH LAWS

- 14.1** Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify County in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry

Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Section 102, Standard Specifications for Road and Bridge Construction, Florida Department of Transportation.

- 14.2 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):** In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

15. CLEANUP AND PROTECTIONS

- 15.1** Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by County. Non-compliance with directives of this section may serve as a basis of rejection of Application for Payment.
- 15.2** Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

16. ASSIGNMENT

- 16.1** Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward County.

17. PERMITS, LICENSES AND TAXES

- 17.1** Except as noted in paragraph 17.2 below, all permits and licenses necessary for the

prosecution of the Work shall be procured and paid for by Contractor. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Contractor to County have been disclosed to Contractor in the bidding documents or other request for proposal at the time the Project was let for bid. If Contractor performs any Work without obtaining, or contrary to, such permits or licenses, Contractor shall bear all costs arising there from. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.

- 17.2 Permits required for the Work from FDOT, FDEP, the Army Corps of Engineers, Northwest Florida Water Management District and any archeological permitting agency will be paid for and obtained by the County.
- 17.3 Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

18 TERMINATION FOR DEFAULT

- 18.1 Contractor shall be considered in material default of the Agreement and such default shall be considered cause for County to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the County or as provided for in the approved Progress Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work; or (5) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; or (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) materially breaches any other provision of the Contract Documents.
- 18.2 County shall notify Contractor in writing of Contractor's default(s). If County determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then County, at its option, without releasing or waiving its rights and remedies against the Contractor's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's Work by whatever means, method or agency which County, in its sole discretion, may choose.
- 18.3 If County deems any of the foregoing remedies necessary, Contractor agrees that is shall not be entitled to receive any further payments hereunder until after the Project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) or damages incurred by County incident to

such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to County on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by the County to complete the Work, such excess shall be paid to the Contractor. The amount to be paid to the Contractor or County, as the case may be, and this obligation for payment shall survive termination of the Agreement.

- 18.4** The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by County in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefore or re-letting the Work, in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.
- 18.5** If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that County is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against County shall be the same as and limited to those afforded Contractor below under Subsection 19.1, Termination for Convenience.
- 18.6** If the Contractor refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement then the County may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven (7) days written notice, during which period Contractor still fails to allow access, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Contractor, and may finish the project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Contractor (excluding monies owed the Contractor for subcontract work).

19 TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION

- 19.1** County shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against County shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against County, including, but not limited to, damages or any anticipated profit on portions of the Work not performed.
- 19.2** County shall have the right to suspend all or any portions of the Work upon giving Contractor two (2) calendar days' prior written notice of such suspension. If all or any

portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds three (3) months, the Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

20 COMPLETION

- 20.1** Upon receipt of written notice, the County will ascertain whether the work or designated portions thereof are ready for the Engineer's substantial completion inspection. From the Engineer's list of incomplete or unsatisfactory items, a schedule for the County's review will be prepared for their completion indicating such completion dates. The County will issue a Certificate of Substantial Completion when the work on the punch list has been accomplished.
- 20.2** Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the County shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a Certificate of Final Completion and Recommendation for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor is due and payable. The final payment shall not become due and payable until Contractor submits: (1) the Release and Affidavit in the form attached as Exhibit D, (2) consent of surety to final payment, (3) if required by County, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by County, and (4) a published copy of the Notice of Completion as provided for in this section. County reserves the right to inspect the Work and make an independent determination as to the Work's acceptability. Unless and until the County is completely satisfied, the final payment shall not become due and payable.

- 20.3** After the Work is ready for final inspection and acceptance by the County, a legal advertisement must be published by the Contractor in a local newspaper of a general countywide circulation at least thirty (30) days before final payment shall be made. Example of such publication is as follows:

Legal Notice of Completion

Notice is hereby given that the undersigned Contractor has completed and has ready for acceptance by the Board of County Commissioners of Escambia County, Florida, the following construction project:

(Project Name and Address)

(Legal Name and Address - entity of the Contractor)

Subcontractors, material men, and other persons having payment claims against the Contractor relating to this project should govern themselves accordingly.

21 WARRANTY

- 21.1** Contractor shall obtain and assign to County all express warranties given to Contractor or any subcontractors by any material men supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to County that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to County that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within two (2) years after substantial completion and acceptance, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from County. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work, which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which County is entitled as a matter of law. The Performance Bond, if required, shall remain in full force and effect throughout the two (2) year Warranty Period.

22 PROJECT LAYOUT AND CONTROL

- 22.1** Engineer will provide survey control, referencing beginning and ending stations, P.C.'s, P.T.'s and intermediate stations at 500 foot intervals. Staking is to be set along control line (base line or centerline of right-of-way, as indicated on plans) or at an offset determined by the Engineer. Bench Marks will be provided at intervals no greater than 1000 feet. The Engineer at the Contractor's expense shall replace any of these points, which are disturbed or destroyed by the Contractor.
- 22.2** Contractor shall employ a competent Engineer or Land Surveyor licensed in the State of Florida familiar with construction control procedures to lay out all other parts of the work, and to establish all points, grades and levels necessary to locate the work. The Contractor shall be held responsible for all mistakes that may be caused by his incorrect layout and grade spotting work, or caused by the loss or disturbance of the Engineer's layout work.
- 22.3** Should the Contractor in the course of the work find that the points, grades, and levels which are shown upon the Drawings are not conformable to the physical conditions of the locality at the proposed work or structure, he shall immediately inform the Engineer of the discrepancy between the actual physical conditions of the locality of the proposed work, and the points, grades and levels which are shown on the Drawings. No claim shall be made by the Contractor against the Owner for compensation or damage by reasons for failure of the Engineer to represent upon said Drawings, points, grades and levels conformable to the actual physical conditions of the locality of the proposed work.

23 TESTS AND INSPECTIONS

- 23.1** County, its respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide County with timely notice of readiness of the Work for all required inspections, tests or approvals.
- 23.2** If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish County the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the County.
- 23.3** If any Work that is to be inspected, tested or approved is covered without written concurrence from the County, such work must, if requested by County, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given County timely notice of Contractor's intention to cover the same and County has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from County, such Work must, if requested by County, be uncovered for County's observation and be replaced at Contractor's sole expense.

- 23.4** Neither observations by the County nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.
- 23.5** Prior to payment for any Work for which testing is specified, Contractor shall provide the County a copy of reasonably acceptable test results relating to such work as required by the technical specifications of the solicitation.

24 DEFECTIVE WORK

- 24.1** Work not conforming to the requirements of the Contract Documents shall be deemed defective Work. If required by County, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by County, remove it from the site and replace it with acceptable Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold County harmless for same.
- 24.2** If the County considers it necessary or advisable that covered Work be observed by County or inspected or tested by others, Contractor, at County's request, shall uncover, expose or otherwise make available for observation, inspection or tests as County may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and County shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.
- 24.3** If any portion of the Work is defective, or Contractor fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, County may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of County to stop the Work shall not give rise to any duty on the part of County to exercise this right for the benefit of Contractor or any other party.
- 24.4** Should the County determine, at its sole opinion, it is in the County's best interest to accept defective Work, the County may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the County's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the County accepts such defective Work after final payment, Contractor at the discretion of the County shall promptly pay County an appropriate amount to adequately compensate County for its acceptance of the defective Work or shall increase

in the Work's warranty period beyond two (2) years.

- 24.5** If Contractor fails, within a reasonable time after the written notice from County, to correct defective Work or to remove and replace rejected defective Work as required by County, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, County may, after seven (7) days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable County to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of County in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

25 SUPERVISION AND SUPERINTENDENTS

- 25.1** Contractor shall supervise 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 responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent acceptable to the County, who shall not be replaced without prior written notice to County except under extraordinary circumstances. The resident superintendent shall possess Florida Department of Transportation approved training and certifications applicable to the Work, including but not limited to National Pollutant Discharge Elimination System (NPDES) Stormwater Management and Maintenance of Traffic Control Devices. The superintendent shall be Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. County shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

26 PROTECTION OF WORK

- 26.1** Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor, or any one for whom Contractor is legally liable, is responsible for any loss or damage to the Work, or

other work or materials of County or County's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

- 26.2** 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 property to stresses or pressures that will endanger it.

27 EMERGENCIES

- 27.1** In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from County is obligated to act to prevent threatened damage, injury or loss. Contractor shall give County written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the County determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

28 USE OF PREMISES

- 28.1** Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.
- 28.2** Contractor shall provide and maintain in a neat, sanitary condition such accommodation for the use of his employees as may be necessary to comply with the regulations of the State Board of Health or other bodies having jurisdiction. He shall commit no public nuisance.

29 SAFETY

- 29.1** The Contractor shall designate in writing the individual responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

29.1.1 All employees of the Work and other persons and/or organizations who may be affected thereby;

29.1.2 All the Work and materials and equipment to be incorporated therein, whether in

storage on or off the Project site; and

29.1.3 Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.

29.2 The Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by County has occurred.

29.3 The Contractor shall adhere at all times to the minimum safety guidelines for construction and renovation projects as set out in Exhibit C of this Agreement.

30 PROJECT MEETINGS

30.1 Prior to the commencement of Work, the Contractor shall attend a pre-construction conference with the County to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the County with respect to the Project, when directed to do so by County. Contractor shall have its subcontractors and suppliers attend all such meetings (including the pre-construction conference) as may be directed by the County.

EXHIBIT B
PERFORMANCE AND PAYMENT BOND

BOND NO. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:
That _____ (Insert name, address, and phone
number of contractor) _____,
as Principal, and

_____, (Insert full name, home office address and phone number of surety)
as Surety, are held and firmly bound unto the Board of County Commissioners for Escambia
County, Florida, 223 Palafox Place, Pensacola, Florida 32597-1591, (850) 595-4900, as Obligee in
the _____ sum _____ of

_____ Dollars (\$ _____), for the payment whereof we bind
ourselves, our heirs, executors, personal representatives, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, Principal has entered into a contract dated as of the _____ day of _____,
20____, with Obligee for Contract No. _____,
_____ (Insert name of project,
including legal description, street address of property

_____ and general description of improvement)

_____ in
accordance with drawings and specifications, which contract is by reference made a part hereof,
and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract; and
3. Performs the guarantee of all work and materials furnished under the Contract applicable to the work and materials, then this bond is void; otherwise it remains in full force.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penalty sum of this Performance Bond, regardless of the number of suits that may be filed by Obligee.

IN WITNESS WHEREOF, the above parties have executed this instrument this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these premises duly signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as _____, of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

ATTEST:

SURETY: _____
(Printed Name)

Witness

(Business Address)

(Authorized Signature)

Witness

(Printed Name)

OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____ as Surety, on behalf of Surety. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

BOND NO. _____

PAYMENT BOND

BY _____ THIS BOND, _____ We,
phone number of contractor) _____ (Insert name, address and
(hereinafter called the "Principal") and
(Insert name) located at _____
_____, a surety insurer
(Insert address and phone number) chartered and existing under the laws of the State of
_____ and authorized to do business in the State of Florida, are held and firmly
bound unto the Board of County Commissioners for Escambia County, Florida, 223 Palafox
Place, Pensacola, Florida 32597-1591, (850) 595-4900, (hereinafter called the "County") in the
sum of _____ (\$ _____) for payment of
which we bind ourselves, our heirs, our personal representatives, our successors and our
assignees, jointly and severally.

WHEREAS, Principal and County have reached a mutual agreement relating to Contract
No. _____

(hereinafter referred to as the "Contract") as of _____ (the bid award date for
projects thereto)

for _____ the purpose _____ of

(Insert name of project, including legal description, street address of property
and _____ general description _____ of
improvement.)

said Contract being made a part of this Bond by this reference.

NOW, THEREFORE, THE CONDITION OF THIS BOND IS THAT IF THE PRINCIPAL:

1. Performs the contract dated _____, _____, between Principal and County for construction of _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all loses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that the County sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

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.

BE IT FURTHER KNOWN:

1. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the said Contract or alterations which may be made in the terms of the said Contract, or in the work to be done under it, or the giving by the County of any extension of time for the performance of the said Contract, or any other forbearance on the part of the County or Principal to the other, shall not in any way release the Principal and the Surety, or either of them, their heirs, personal representatives, successors or assigns from liability hereunder, notice to the Surety of any such changes, alterations, extensions or forbearance being hereby waived.
2. Certain claimants seeking the protection of this Bond must timely comply with the strict requirements set forth in Section 255.05, Florida Statutes, and as otherwise provided by law.
3. As concerns payment for labor, materials and supplies, as affects certain claimants, no legal action shall be instituted against the Principal or Surety on this Bond after one (1) year from the performance of labor or the completion of delivery of the materials or supplies as is specifically mandated pursuant to Section 255.05, Florida Statutes.

THIS BOND DATED THE _____ DAY OF _____, 20____ (the date of issue by the Surety or by the Surety's agent and the date of such agents power-of-attorney).

Signed, sealed and delivered
in the presence of:

PRINCIPAL:

By: _____

Name: _____

Its: _____

Witnesses as to Principal

STATE OF _____
COUNTY OF _____

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

_____, of _____, a _____
corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced
_____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

ATTEST:

SURETY: _____
(Printed Name)

Witness

(Business Address)

Witness

(Authorized Signature)

(Printed Name)

OR

As Attorney In Fact (Attach Power)

Witnesses

(Business Address)

(Printed Name)

(Telephone Number)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of _____ as Surety, on behalf of Surety. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires:

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

SAMPLE

EXHIBIT C
INSURANCE AND SAFETY

INSURANCE - BASIC COVERAGES REQUIRED

The Contractor shall procure and maintain the following described insurance, except for coverages specifically waived by the County. Such policies shall be from insurers with a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Such policies shall provide coverages for any or all claims which may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of the Contract Documents, whether such services, work and operations be by the Contractor, its employees, or by subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

The Contractor shall require, and shall be responsible for assuring throughout the time the Agreement is in effect, that any and all of its subcontractors obtain and maintain until the completion of that subcontractor's work, such of the insurance coverages described herein as are required by law to be provided on behalf of their employees and others.

The required insurance shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

These insurance requirements shall not limit the liability of the Contractor. The County does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor's interests or liabilities, but are merely minimums.

Except for workers compensation and professional liability, the Contractor's insurance policies shall be endorsed to name Escambia County as an additional insured to the extent of its interests arising from this agreement, contract or lease.

The Contractor waives its right of recovery against the County, to the extent permitted by its insurance policies.

The Contractor's deductibles/self-insured retentions shall be disclosed to the County and may be disapproved by the County. They shall be reduced or eliminated at the option of the County. The Contractor is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Contractor or any other insurance of the Contractor shall be considered primary, and insurance of the County, if any, shall be considered excess, as

may be applicable to claims obligations which arise out of this agreement, contract or lease.

Workers Compensation Coverage

The Contractor shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and with employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease, or a valid certificate of exemption issued by the state of Florida, or an affidavit in accordance with the provisions of Florida Workers Compensation law.

Contractor shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile And Excess Or Umbrella Liability Coverage

The Contractor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage coverages, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Contractor is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the County's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, nonowned and hired automobiles and employee nonownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverages. Umbrella coverage shall drop down to provide coverage where the underlying limits are exhausted.

WATERCRAFT LIABILITY COVERAGE

Because the Contractor's provision of services involves utilization of watercraft, watercraft liability coverage must be provided with \$1,000,000 per occurrence minimum limit to include bodily injury and property damage arising out of ownership, maintenance or use of any watercraft, including owned, nonowned and hired. Coverage may be provided in the form of an endorsement to the general liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity.

POLLUTION/ENVIRONMENTAL IMPAIRMENT LIABILITY COVERAGE

At the County's discretion, Contractor may be required to purchase and maintain pollution/environmental impairment liability insurance with \$1,000,000 per occurrence minimum limit to cover pollution and/or environmental impairment which may arise from this agreement or contract.

Evidence/Certificates of Insurance

Required insurance shall be documented in Certificates of Insurance. If and when required by the County, Certificates of Insurance shall be accompanied by documentation that is acceptable to the County establishing that the insurance agent and/or agency issuing the Certificate of Insurance has been duly authorized, in writing, to do so by and on behalf of each insurance company underwriting the insurance coverages(s) indicated on each Certificate of Insurance.

New Certificates of Insurance are to be provided to the County at least 30 days prior to coverage renewals. Failure of the Contractor to provide the County with such renewal certificates may be considered justification for the County to terminate this agreement, contract or lease.

Certificates should contain the following additional information.

1. Indicate that Escambia County is an additional insured on the general liability policy.
2. Include a reference to the project and the Office of Purchasing number.
3. Disclose any self-insured retentions in excess of \$1,000.
4. Designate Escambia County as the certificate holder as follows:
Escambia County
Attention: _____
Office of Purchasing
P.O. Box 1591
Pensacola, FL 32597-1591

Fax (850) 595-4805

5. Indicate that the County shall be notified at least 30 days in advance of cancellation.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the County, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein.

If requested by the County, the Contractor shall furnish complete copies of the Contractor's insurance policies, forms and endorsements, and/or such additional information with respect to its insurance as may be requested.

For Commercial General Liability coverage the Contractor shall, at the option of the County, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

ENDORSEMENTS/ADDITIONAL INSURANCE

If checked below, the County requires the following endorsements or additional types of insurance.

— **TERMINATION/ADVERSE CHANGE ENDORSEMENT**

All of Contractor's policies, except for professional liability and workers compensation insurance, are to be endorsed, and the Contractor's Certificate(s) of Insurance shall state, that the County shall be notified at least 30 days in advance of cancellation, nonrenewal or adverse change.

— **PROPERTY COVERAGE FOR LEASES**

The Contractor shall procure and maintain for the life of the lease, all risk/special perils (including sinkhole) property insurance (or its equivalent) to cover loss resulting from damage to or destruction of the building and personal property/contents. The policy shall cover 100% replacement cost, and shall include an agreed value endorsement to waive coinsurance.

Coverage shall also include continued full payment of rents to the County for up to one year after damage or destruction of the property

— **COMMERCIAL GENERAL LIABILITY COVERAGE PROJECT AGGREGATE**

Because the Commercial General Liability form of coverage includes an annual aggregate limitation on the amount of insurance provided, a separate project aggregate limit of \$_____ is required by the County for this agreement or contract.

LIQUOR LIABILITY

In anticipation of alcohol being served, the Contractor shall provide evidence of coverage for liquor liability in an amount equal to the general/umbrella/excess liability coverage. If the general liability insurance covers liquor liability (e.g. host or other coverage), the Contractor's agent or insurer should provide written documentation to confirm that coverage already applies to this agreement, contract or lease. If needed coverage is not included in the general/umbrella/excess liability policy(ies), the policy(ies) must be endorsed to extend coverage for liquor liability, or a separate policy must be purchased to provide liquor liability coverage in the amount required.

OWNERS PROTECTIVE LIABILITY COVERAGE

For renovation or construction contracts the Contractor shall provide for the County an owners protective liability insurance policy (preferably through the Contractor's insurer) in the name of the County.

This is redundant coverage if the County is named as an additional insured in the Contractor's Commercial General Liability insurance policy. However, this separate policy may be the only source of coverage if the Contractor's liability coverage limit is used up by other claims.

BUILDERS RISK COVERAGE

Builders Risk insurance is to be purchased to cover subject property for all risks of loss, subject to a waiver of coinsurance, and covering off-site storage, transit and installation risks as indicated in the Installation Floater and Motor Truck Cargo insurance described hereafter, if such coverages are not separately provided.

The Builders Risk insurance is to be endorsed to cover the interests of all parties, including the County and all contractors and subcontractors. The insurance is to be endorsed to grant permission to occupy.

INSTALLATION FLOATER COVERAGE

Installation Floater insurance is to be purchased when Builder's Risk insurance is inappropriate, or when Builder's Risk insurance will not respond, to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The amount of coverage should be adequate to provide full replacement value of the property, repairs, additions or equipment being installed, otherwise being handled or stored on or off premises. All risks coverage is preferred.

MOTOR TRUCK CARGO COVERAGE

If the Installation Floater insurance does not provide transportation coverage, separate Motor Truck Cargo or Transportation insurance is to be provided for

materials or equipment transported in the Contractor's or other vehicles from place of receipt to building sites or other storage sites. All risks coverage is preferred.

CONTRACTOR'S EQUIPMENT COVERAGE

Contractor's Equipment insurance is to be purchased to cover loss of equipment and machinery utilized in the performance of work by the Contractor. All risks coverage is preferred.

FIDELITY/DISHONESTY COVERAGE - FOR EMPLOYER

Fidelity/Dishonesty insurance is to be purchased to cover dishonest acts of the Contractor's employees, including but not limited to theft of vehicles, materials, supplies, equipment, tools, etc., especially property necessary to work performed.

FIDELITY/DISHONESTY/LIABILITY COVERAGE - FOR COUNTY

Fidelity/Dishonesty/Liability insurance is to be purchased or extended to cover dishonest acts of the Contractor's employees resulting in loss to the County.

GARAGE LIABILITY COVERAGE

Garage Liability insurance is to be purchased to cover the Other Party and its employees for its garage and related operations while in the care, custody and control of the County's vehicles.

GARAGEKEEPERS COVERAGE (LEGAL LIABILITY FORM)

Garagekeepers Liability insurance is to be purchased to cover the Other Party's liability for damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds only when the Other Party is legally liable for the loss.

GARAGEKEEPERS COVERAGE (DIRECT-EXCESS FORM)

Garagekeepers Liability insurance is to be purchased to cover damage or other loss, including comprehensive and collision risks, to the County's vehicles while in the care, custody and control of the Other Party. This form of coverage responds on a legal liability basis, and also without regard to legal liability on an excess basis over any other collectible insurance.

UNITED STATES LONGSHOREMEN AND HARBORWORKERS ACT COVERAGE

The Workers Compensation policy is to be endorsed to include United States Longshoremen and Harborworkers Act Coverage for exposures which may arise from this agreement or contract.

JONES ACT COVERAGE

The Workers Compensation policy is to be endorsed to include Jones Act Coverage for exposures, which may arise from this agreement or contract.

AIRCRAFT LIABILITY COVERAGE

Because the Contractor's provision of services involves utilization of aircraft, aircraft liability coverage must be provided to include bodily injury and property damage arising out of ownership, maintenance or use of any aircraft, including owned, nonowned and hired.

The minimum limits of coverage shall be \$____,000,000 per occurrence, Combined Single Limit for Bodily Injury (including passenger liability) and Property Damage.

PROFESSIONAL LIABILITY/MALPRACTICE/ERRORS OR OMISSIONS INSURANCE

Contractor shall purchase and maintain Professional Liability or malpractice or errors or omissions insurance coverage with a minimum limit of \$1,000,000, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

MINIMUM PROJECT SAFETY REQUIREMENTS

The following safety requirements represent the minimum conditions which shall be met by all Contractors and subcontractors performing work for Escambia County. The Contractor shall be responsible to ensure his compliance with all State and Federal safety regulations as specified in County contract documents. Reported or observed violations of OSHA (29 CFR 1910 or 1926) and other regulations shall be brought to the attention of the County project manager and County Safety Office and shall be immediately corrected by the Contractor. Failure to comply with required safety procedures shall result in the suspension of the Work of the Contractor until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Contractor may be referred by the County to either the project insurance coordinator or the Department of Labor and Employment Security, Division of Safety, for inspection or interpretation. The Contractor shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

- (1) Prior to the commencement of the project, the Contractor and all subcontractors shall provide to the County a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.
- (2) The Contractor shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including County and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Contractor representative or by the project manager or designee.
- (3) The Contractor shall provide all necessary safety equipment for County staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Contractor or required by State or Federal safety regulations.
- (4) Construction vehicles on the work site shall always be operated in a safe manner. The Contractor shall take appropriate action to ensure the safety of County staff, visitors, and the general public while operating work vehicles at a controlled construction site. Where conditions warrant, or at the request of the County, temporary barriers shall also be established for these traffic areas.
- (5) The Contractor shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to County staff, visitors, or the general public. At a

minimum, the project site shall be posted with the

appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: THIS AREA IS A DESIGNATED CONSTRUCTION SITE; ANYONE TRESPASSING ON THIS PROPERTY SHALL, UPON CONVICTION, BE GUILTY OF A FELONY; DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY, and other general safety warning signs, i.e., HARD HAT AREA, as are deemed necessary by the Contractor and project manager.

- (6) In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the County safety Office. Alternative measures may include, but are not limited to, working during off hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the County).
- (7) The Contractor shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the County Safety Office and the appropriate life safety code inspector), shall the life safety code components of an occupied facility be reduced or otherwise compromised. A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Contractor shall communicate with each subcontractor as to scheduling of events that may pose hazards or inconveniences to building occupants. The Contractor shall also ensure that appropriate scheduling information is also conveyed to the project manager.
- (8) Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Contractor to adhere to the following guidelines at a minimum:
 - (a) The Contractor shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The Contractor shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the County Safety Office. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.
 - (b) Material Safety Data Sheets (MSDS) shall be provided for all hazardous substances used on the project or brought on the job site. These products

include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.

- (c) Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Contractor shall also determine whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Contractor.
 - (d) The Contractor should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.
- (9) The Contractor shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing County 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.
 - (10) The Contractor agrees and understands that all County construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or County regulatory agencies.
 - (11) The Contractor shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Contractor shall ensure that these containers are subsequently emptied on a regular basis.
 - (12) Water runoff and soil erosion from the project site shall be controlled by the Contractor pursuant to the regulations of the Florida Department of Environmental Protection.
 - (13) Water-based paint and stain products shall be used by the Contractor in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior approval from the project manager or

County Safety Office shall be obtained before their use.

- (14) The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior approval for use of these metals shall be obtained by the Contractor from the project manager.
- (15) The use of any radioactive materials by the Contractor on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Contractor to the project manager and County Safety Office for review.
- (16) The County maintains programs for the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement contractors. General contractors, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Contractors who encounter such materials shall immediately stop work and notify the project manager or the County Safety Office.
- (17) The above-cited guidelines represent minimum expectations and actions which shall be taken by Contractors while under contract for County construction and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager or County Safety Office.

EXHIBIT D

RELEASE AND AFFIDAVIT

COUNTY OF ESCAMBIA)
)
STATE OF FLORIDA)

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Contractor") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Board of County Commissioners of Escambia County, Florida, ("County") relating in any way to the performance of the Agreement between Contractor and County dated _____, 20____, for the period from _____ to _____.

(2) Contractor certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which County might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Contractor agrees to indemnify, defend and save harmless County from all demands or suits, actions, claims of liens or other charges filed or asserted against the County arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with Contractor's (monthly/final) Application for Payment No. _____.

CONTRACTOR:

By:_____

Its:_____

President

Date:_____

[Corporate Seal]

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification and did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Serial No., If Any: _____

EXHIBIT E

FORM OF CONTRACT APPLICATION FOR PAYMENT

- AIA DOCUMENT #G702, 1992 EDITION
- AIA DOCUMENT #G703, 1992 EDITION

SAMPLE

EXHIBIT F

CHANGE ORDER

CHANGE ORDER NO. _____

CONTRACT

NO.

TO: _____

DATE: _____

PROJECT NAME _____

PROJECT NO. _____

Under our AGREEMENT dated _____, 20____.

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement:

FOR THE (Additive) (Deductive) Sum of:
_____ (\$_____).

Original Agreement Amount \$ _____

Sum of Previous Changes \$ _____

This Change Order (Add) (Deduct) \$ _____

Present Agreement Amount \$ _____

The time for completion shall be (increased/decreased) by _____ (____) calendar days due to this Change Order. Accordingly, the Contract Time is now _____ (____) calendar days and the final completion date is _____. Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

The Contract Administrator has directed the Contractor to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or greater value Change Order.

☐ Check if applicable and provide written confirmation from the bonding company/agent (attorney-in-fact) that the amount of the Performance and Payment bonds have been adjusted to 100% of the new contract amount.

Accepted: _____, 20____

By: _____
Contractor

By: _____
Architect/Engineer

By: _____
Owner

**STANDARD PROFESSIONAL CONSULTING SERVICES
CONTRACT DOCUMENTS**

FOR

**AGREEMENT BETWEEN
ESCAMBIA COUNTY**

AND

FORM F: CONSULTING SERVICES FOR TASK ORDERS

(Revised 2012)

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AGREEMENT

This is an Agreement between Escambia County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, its successors and assigns, with its administrative offices located at 221 Palafox Place, Pensacola, Florida 32502-1590, (hereinafter referred to as "County,") and _____, a for-profit corporation, authorized to do business in the State of Florida, its successors and assigns, whose federal identification number is _____, and whose business address is, _____, (hereinafter referred to as "Consultant").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the County and the Consultant agree as follows:

ARTICLE 1 **DEFINITIONS AND IDENTIFICATIONS**

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are therefore agreed upon by the parties.

1.1 BOARD OF COUNTY COMMISSIONERS:

The Board of County Commissioners is the governing body of Escambia County, Florida.

1.2 CONSULTANT:

_____ is the Consultant selected to perform professional services pursuant to this Agreement.

1.3 CONTRACT ADMINISTRATOR:

Whenever the term Contract Administrator is used herein, it is intended to mean (Dept. Name), (Title), Escambia County (Dept.). In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

1.4 COUNTY:

Escambia County, Florida is a body corporate and politic and a political subdivision of the State of Florida.

1.5 NOTICE TO PROCEED:

The Notice to Proceed is the written authorization as defined in Section 1.10 issued by the County or the Contract Administrator to commence the project.

1.6 PROJECT:

The project is the task, as defined in Section 1.10, assigned to the Consultant pursuant to this Agreement.

1.7 PROJECT MANAGER:

The project manager shall mean the staff person within the County's (Dept. Name) who is assigned by the Contract Administrator to oversee the task order work.

1.8 SCOPE OF SERVICES:

The intent of this Agreement is to make available certain design, engineering, surveying, and inspection services for Escambia County as requested and as outlined herein.

1.9 SCOPE OF WORK:

The scope of work is the specific information relating to those certain services provided to the Consultant on an individual project task order including, but not limited to: project description with boundaries, intent of project, anticipated services required, and expected deliverables.

1.10 TASK ORDER:

The task order is a formal written assignment of work, based upon negotiation, which is issued to the Consultant pursuant to this Agreement.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and that may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Negotiations pertaining to hourly rates for professional services to be performed by the Consultant were undertaken between the Consultant and a committee selected by the Board of County Commissioners, and this Agreement incorporates the results of

such negotiations.

2.2 The Board of County Commissioners has met the requirements of Section 287.055, Florida Statutes, as amended, the Consultants' Competitive Negotiation Act, and has selected (Consultant Firm Name), to perform such services hereunder.

2.3 Escambia County will budget funds for each task order issued under the Agreement.

ARTICLE 3 **SCOPE OF SERVICES**

3.1 The Consultant will provide _____ (briefly describe) _____ as hereinafter described in this Article 3 for tasks outlined in Escambia County's RFP Specification No. P.D. _____. In the event of a conflict between the terms of the RFP and this Agreement, the terms of this Agreement shall prevail.

3.2 The basic professional services to be provided are as set forth in Exhibit "A," attached hereto and incorporated by reference herein, and unless otherwise specifically excluded from any particular task order, these services shall comport with County guidelines for construction and retrofitting of projects, and local ordinances, State, and Federal laws and regulations.

ARTICLE 4 **ORDERING OF THE WORK**

4.1 The Consultant is one of several firms selected to perform professional services on same or similar terms pursuant to this Agreement. The County expressly reserves the exclusive right to assign specific task orders to the firm it deems best suited for the type of work to be accomplished. This Agreement does not guarantee any amount or type of task orders to be assigned to the Consultant.

4.2 The scope of work, provided by the County, will constitute the basis for negotiation of each task order. When requested by the County, the Consultant will provide a proposal to the County to perform the services requested under this scope of work. The County and the Consultant will enter negotiations to determine a fair and reasonable number of hours, by discipline, for such requested services pursuant to Section 3.2.

4.3 In the event a mutually agreeable number of hours is reached, the County will issue a task order which describes the services to be provided by the Consultant and the amount of compensation to be provided by the County. In the event a mutually agreeable number of hours cannot be reached, the Consultant will be requested to provide a best and final offer to the County. If this best and final offer is not acceptable to the County, negotiations will cease with the Consultant, and the County will open negotiations for the same scope of work with another firm.

ARTICLE 5
TIME FOR PERFORMANCE

5.1 As a part of its task order proposal, the Consultant shall submit to the County a schedule for completion of the scope of work. Pursuant to Article 4 above, this schedule is a negotiable item during task order negotiations.

5.2 Prior to beginning the performance of any basic professional services under this Agreement, the Consultant must receive a written Notice to Proceed from the County. For those task orders where a mutual agreement of a fair and reasonable price has been reached, a copy of the fully executed task order will serve as the Consultant's written approval to begin the performance of the Consultant's services. Prior to granting approval for the Consultant to proceed to a subsequent phase of a task order, the Contract Administrator may at his or her sole discretion require the Consultant to submit such documents and drawings as may be reasonably necessary for review and approval by the County.

ARTICLE 6
COMPENSATION AND METHOD OF PAYMENT

6.1 **COMPENSATION:**

(a) The County agrees to pay the Consultant as compensation for its services under Section 3.1 of this Agreement a fee to be computed as described below and based upon the schedule set forth in Exhibit B, attached hereto and made a part hereof. Individual task orders submitted to the Consultant will be paid through a budget line item recommended by the (Dept. Name) and approved by the Board of County Commissioners. For each such task order, the consultant will be compensated by a lump sum fee as negotiated, unless otherwise mutually agreed to by the parties hereto.

(b) The term "salary costs" as used herein shall mean the hourly rate as shown on Exhibit B, attached hereto and made a part hereof, including but not limited to, principals, engineers, surveyors, draftsmen, clerks, plus costs for sick leave, vacation, unemployment, excise and payroll taxes, contributions for social security, employment compensation insurance, retirement benefits, and medical and insurance benefits. Said salary costs shall be only for time directly chargeable to a task order under this Agreement. A detailed breakdown for these costs shall be kept current and readily accessible to the County.

6.2 **ANNUAL APPROPRIATION:**

Pursuant to the requirements of Florida law and Article II of Chapter 46, Escambia County Code of Ordinances, the County's performance and obligation to fund this Agreement shall be contingent upon an annual appropriation by the

Escambia County Board of County Commissioners.

6.3 YEARLY ADJUSTMENT OF CONSULTANT'S RATES:

(a) On or before August 31 of each contract year, either party may request an adjustment in the Consultant's existing hourly rate schedule. Both the Consultant and the County agree to enter into negotiations concerning such changes upon receipt of a written request from the other detailing the proposed changes and specifying the reasons for such changes. Should the parties fail to reach agreement on the Consultant's revised hourly rates within thirty (30) days after the commencement of such negotiations, this Agreement shall terminate by operation of law on October 1 of that contract year, and the Consultant shall no longer be eligible to offer its services to the County pursuant to this Agreement.

(b) The effective date of any such adjustment shall be October 1 of the contract year. The Consultant agrees that throughout the life of this Agreement, at no time will the negotiated rates charged to the County be in excess of any other published or unpublished rates paid by any other client of the same class under similar terms and conditions of use and service.

(c) Rate adjustments shall be made a part of this Agreement by the issuance of a written contract amendment executed by the parties.

6.4 DIRECT EXPENSES:

(a) Direct expenses directly attributable to a task order will be borne by the Consultant and will include, but not be limited to, the following:

1. Transportation expenses in connection with any task order.
2. Living expenses in connection with travel inside and outside of Escambia County and other related expenses.
3. Long distance communications and other miscellaneous communications expenses.
4. Cost of printing drawings and specifications which are required by or of the Consultant to deliver services set forth in this Agreement.
5. Cost of any software or hardware used or developed for any task order.

(b) Direct expenses to be borne by the Consultant shall not include project permit fees or compensation owed to subcontractors engaged according to Section 10.5 of this Agreement.

6.5 METHOD OF BILLING AND PAYMENT:

(a) The Consultant shall submit monthly estimates (payment requisitions) for the amount and value of the work accomplished and services performed by the Consultant which meet standards of quality established under this Agreement. The estimates shall be prepared by the Consultant and shall be accompanied by any supporting data required by the County. Where the monthly estimate includes work done by a subcontractor, the Consultant shall attach copies of that subcontractor's invoice for such work. The Consultant agrees no markup for overhead and profit on subcontractor's invoices shall be allowed on any project task order.

(b) For lump sum contracts, the Consultant may submit bills at the completion and approval of each phase or for partial completion of each phase on a pro-rata basis. However, requests for payment shall not be made more frequently than once a month.

(c) Upon approval of the estimate by the County, payment upon properly executed payment requisitions shall be made to the Consultant within forty five (45) days.

(d) Payments under this Agreement and interest on any late payments shall be governed by the Florida Prompt Payment Act, §§ 218.70, et seq., Florida Statutes, as amended.

6.6 Payment requisitions will be sent to: Notices will be sent to:

(Contact Name & Title)
(Dept. Name)
(Address)
Pensacola, Florida (Zip)
(850) (Telephone #)
(850) (Fax #)

County Administrator
Escambia County Administrator
221 Palafox Place
Pensacola, Florida 32502-1590
(850) 595-4900
(850) 595-4908

6.7 Payments and notices will be made to the Consultant at:

(Principle Name & Title)
(Consulting Firm's Name)
(Address)
(City, State, Zip)

(a) Any notice required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or other private courier service, such as Federal Express.

(b) Unless otherwise notified in writing of a new address, notices, payments, and invoices shall be made to each party at the listed addresses. Rejection, or other refusal by the addressee to accept, or the inability of the courier service, or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

ARTICLE 7

ADDITIONAL SERVICES AND

CHANGES IN SCOPE OF SERVICES

7.1 The County or the Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services provided under this Agreement. Such changes must be in accordance with the procurement policies of Escambia County and must be contained in a written amendment, executed by the parties thereto, with the same formality and of equal dignity prior to any deviation from the terms of this Agreement, including the initiation of any extra work.

7.2 The County or the Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Work of individual project task orders. Such changes must be negotiated and mutually agreed upon by both parties. This mutual agreement will be formalized by a written change order to the task order issued by the County to the Consultant.

ARTICLE 8

COUNTY'S RESPONSIBILITIES

8.1 The County shall assist the Consultant by placing at its disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.

8.2 The County shall make available to the Consultant, as required for performance of the Consultant's basic services, data prepared by or services of others, including without limitation (as may be appropriate) core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restriction; and other special data or consultations.

8.3 The County shall arrange for access to and make all provisions for the Consultant to enter upon public and private property as required for the Consultant to perform its services.

8.4 The County shall examine, within a reasonable time so as not to delay the services of the Consultant, all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the Consultant, obtain advice of an attorney, insurance counselor and other consultants, as the County deems appropriate, for such examination and the rendering of written opinions or decisions pertaining thereto.

8.5 The County will assist in obtaining approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the task order by the Consultant.

8.6 The County shall give prompt written notice to the Consultant whenever the County observes or otherwise becomes aware of any development that affects the scope of timing of the Consultant's services, or any defect in the work of the Consultant.

8.7 The County will perform an evaluation of the services provided by the Consultant at the completion of work of each task order. This evaluation will consider the timeliness as well as the quality of services provided during that task order for the purpose of determining whether additional task orders will be awarded to the Consultant by the County.

ARTICLE 9

CONSULTANT'S RESPONSIBILITIES

9.1 QUALITY OF SERVICES:

(a) The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished pursuant to this Agreement.

(b) To that end, the Consultant shall correct or shall revise, without additional compensation, any errors or deficiencies in its work product or shall make such revisions as are necessary as the result of the failure of the Consultant to provide an accurate, more efficient, and properly constructable product in its designs, drawings, specifications, or other services.

(c) Neither the County's review of, approval of, or acceptance of, nor payment for, the services required by this Agreement shall be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. Additionally, the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused

by the Consultant's negligent performance of any of the services furnished under this Agreement.

(d) The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies otherwise provided by law.

9.2 CONSULTANT PROFESSIONAL REGISTRATION AND CERTIFICATION:

(a) The design services provided to the County by the Consultant shall be certified by professional engineers registered to practice and in good standing in the State of Florida. Any project inspection services also shall be reviewed and shall be approved by such professional engineers.

(b) The survey services provided to the County by the Consultant shall be certified by professional land surveyors registered to practice and in good standing in the State of Florida.

(c) Permit applications to State and Federal agencies prepared by the Consultant shall be signed and shall be sealed by the Consultant, as the project's Engineer of Record. For all such permit applications, post-construction certification also shall be made by the Consultant to the appropriate State or Federal permitting agency.

ARTICLE 10 **GENERAL CONDITIONS**

10.1 OWNERSHIP OF DOCUMENTS

(a) Drawings, specifications, designs, models, photographs, reports, surveys, calculations, and other data provided in connection with this Agreement are and shall remain the property of the County whether the project for which they are made is executed or not. Such finished or unfinished documents, data, calculations, studies, surveys, specifications, drawings, maps, models, photographs and reports prepared by the Consultant shall be delivered by the Consultant to the County at the conclusion of the project or the termination of the Consultant's services.

(b) When such documents are provided to other parties, the Consultant shall ensure return of the County's property by collecting a deposit equal to the cost of reproduction. Such deposit shall be returned if the documents are timely returned in a useable condition. Otherwise, such deposit shall be retained by the Consultant.

10.2 SUSPENSION OR TERMINATION OF WORK:

(a) The County, in writing, may order the Consultant to suspend, delay, or interrupt all or any part of the work of a task order for the period of time that the County determines to be appropriate for the convenience of the County. The Consultant expressly acknowledges and agrees that it shall receive no damages for delays. The Consultant's sole remedy, if any, against the County will be the right to seek an extension to the contract time as provided for the completion of the project.

(b) This Agreement may be terminated by either party for cause, or by the County for convenience, upon fourteen (14) days written notice by the terminating party to the other party of such termination in which event the Consultant shall be paid its compensation for services performed to termination date, including all reimbursable expenses then due or incurred to the date of termination.

(c) Termination of the Consultant for cause shall include, but not be limited to, misuse of funds, fraud, lack of compliance with applicable rules, laws, regulations, and ordinances, and failure to perform in a timely manner any provision of this Agreement.

(d) In no event shall a termination for convenience by the County be deemed a default, and any such termination shall not subject the County to any penalty or other claim for damages. If the Consultant abandons this Agreement or causes it to be terminated, the Consultant shall indemnify the County against any loss pertaining to this termination up to a maximum of 1.3 times the full contracted fee amount of the project.

(e) Vendor suspension or debarment proceedings brought by the County pursuant to Article II of Chapter 46, Escambia County Code of Ordinances, shall be grounds for immediate termination of this Agreement.

10.3 RECORDS:

(a) The Consultant shall keep such records and accounts and shall require any subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement and any expenses for which the Consultant expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by the County, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the County of any fees or expenses based upon such entries.

(b) The Consultant acknowledges that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the Consultant fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any right or remedy and after giving the Consultant and its surety, if any, seven (7) days written notice, during which period the Consultant still fails to allow access to such documents, terminate the employment of the Consultant. In such case, the Consultant shall not be entitled to receive any further payment. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Consultant (excluding monies owed the Consultant for subcontractor work).

10.4 NO CONTINGENT FEES:

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the County shall have the right to terminate the Agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

10.5 SUBCONTRACTORS

In the event the Consultant, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, the Consultant must secure the prior written approval of the County unless such work is specifically detailed in the task order.

Any subcontractors or other professional associates retained by Consultant must carry the appropriate insurance coverage as specified in paragraph 10.8 below in an amount equal to or greater than the coverage carried by the Consultant.

10.6 ASSIGNMENT:

This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by the Consultant, without the prior written consent of the County. However, the Agreement shall run with the Escambia County Government and its successors.

10.7 HOLD HARMLESS AND INDEMNIFICATION OF COUNTY

The Consultant agrees to hold harmless and indemnify the County and its agents, officers, and employees from all liabilities, damages, losses, and costs, including attorneys' fees and paralegals' fees, incurred by County to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Consultant, or by any other person for whom the Consultant is legally liable. Consultant's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm or corporation to whom any portion of the Work is subcontracted by Consultant, and Consultant shall not be required to indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's and paralegal fees.

County and Consultant agree one percent (1%) of the Contract Amount paid by County to Consultant shall be given as separate consideration for this indemnification, and any other indemnification of County by Consultant provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Consultant by Consultant's acceptance and execution of the Agreement.

Consultant agrees that such indemnification by the Consultant relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any statutes of limitations thereafter. The Consultant's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

10.8 INSURANCE:

The Consultant is required to carry the following insurance:

- (a) Commercial General Liability with \$1,000,000 minimum per occurrence, including coverage parts of bodily injury, property damage, broad form property damage, personal injury, independent contractors, blanket contractual liability, and completed operations.
- (b) Automobile Liability with \$1,000,000 per occurrence minimum combined single limits for all hired, owned, and non-owned vehicles.
- (c) Professional Liability coverage with \$1,000,000 minimum limit, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this

Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

(d) Florida statutory workers' compensation and employers' liability with employer's liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.

(e) It is understood and agreed by the parties that in the event that the Consultant, as defined in Section 1.2, consists of a joint venture, partnership, or other association of professional or business firms, each such firm shall be required to individually carry the above cited coverages.

(f) All liability coverage shall be through carriers admitted to do business in the State of Florida. Carriers shall be a minimum financial size of VII according to the latest edition of the AM Best Rating Guide. An A or better Best Rating is "preferred"; however, other ratings if "Secure Best Ratings" may be considered. Liability policies shall be underwritten on the occurrence basis, except the professional and environmental impairment coverage may be provided on a claims made basis. Escambia County and the Board of County Commissioners shall be "additional insureds" on all liability policies (except professional liability). Certificates of insurance shall be provided to Joe Pillitary, Purchasing Manager, P.O. Box 1591, Pensacola, Florida 32597-1591 prior to commencement of work hereunder. Certificates shall reflect the additional insured status of Escambia County and shall provide for a minimum of thirty (30) days notice of cancellation. Escambia County and the Board of County Commissioners also shall be the certificate holders.

10.9 CLAIMS AND DISPUTES:

(a) A claim is a demand or assertion by one of the parties to this Agreement seeking an adjustment or interpretation of the terms of the contract documents, payment of money, extension of time or other relief with respect to the terms of the contract documents. The term "claim" also includes other disputes and matters in question between the County and the Consultant arising out of or relating to the contract documents. The responsibility to substantiate a claim shall rest with the party making the claim.

(b) Claims by the Consultant shall be made in writing to the County with supporting data. All claims shall be submitted during the performance term of the Agreement or else the Consultant shall be deemed to have waived that claim.

(c) The Consultant shall proceed diligently with its performance, as directed by the County, regardless of any pending claim, legal action, suit, or administrative proceeding, unless otherwise agreed to by the County in writing. The County shall continue to make payments in accordance with the contract documents during the pendency of such claim.

10.10 REPRESENTATIVE OF COUNTY AND CONSULTANT:

(a) It is recognized that questions in the day-to-day conduct of the project will arise. The Contract Administrator, upon request by the Consultant, shall designate and shall advise the Consultant in writing, persons to whom all communications pertaining to the day-to-day conduct of the project shall be addressed.

(b) The Consultant shall inform the Contract Administrator in writing of the representative of the Consultant to whom matters involving the conduct of the project shall be addressed.

10.11 ALL PRIOR AGREEMENTS SUPERSEDED

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

(b) It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

10.12 TERM OF AGREEMENT:

This Agreement shall be for a one (1) year term beginning (Month Day, Year) and continuing through (Month Day, Year), with an option to renew for two (2) successive one (1) year periods.

10.13 TRUTH-IN-NEGOTIATION CERTIFICATE:

Signature of this Agreement by the Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

10.14 HEADINGS:

Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

10.15 GRATUITIES:

Neither the Consultant nor any of its employees, agents, and representatives shall offer or give to an officer, official, or employee of the County gifts, entertainment, payments, loans, or other gratuities. The Consultant acknowledges knowledge of the State of Florida's ethics statutes and to the extent applicable to the Consultant, the Consultant agrees to abide with such statutes.

10.16 CONFLICT OF INTEREST:

The Consultant hereby certifies that it will completely disclose to the County all facts bearing upon any possible conflicts, direct or indirect, with its performance which it believes that any officer, employee, or agent of the Consultant now has or will have. Said disclosure shall be made by the Consultant contemporaneously with the execution of this Agreement and at any time thereafter that such facts become known to the Consultant. The Consultant at all times shall perform its obligations under this Agreement in a manner consistent with the best interests of the County. Failure to abide by this section shall result in the immediate termination of this Agreement pursuant to Article II of Chapter 46 of the Escambia County Code of Ordinances.

10.17 SURVIVAL:

All other provisions which, by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

10.18 GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any matter which is a subject of this Agreement shall be in the County of Escambia.

10.19 INTERPRETATION:

For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

(a) If the Consultant discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the Consultant shall immediately notify the County and request clarification of the County's interpretation of this Agreement.

(b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

10.20 SEVERABILITY:

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

10.21 COMPLIANCE WITH LAWS:

The Consultant shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement. Without limiting the generality of the foregoing, the Consultant shall observe all rules and regulations of federal, state, and local officials relating to the subject matter of this Agreement.

10.22 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

10.23 PARTICIPATION IN OTHER PROCEEDINGS:

At the County's request, the Consultant shall allow itself to be joined as a party in any legal proceeding that involves the County regarding the design, construction, or installation of any matter which is the subject of this Agreement. This provision is for the benefit of the County and not for the benefit of any other party.

10.24 FURTHER DOCUMENTS:

The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.

10.25 NO WAIVER:

The failure of the Consultant or the County to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Escambia County, Florida through its Board of County Commissioners, signing by its Board Chairman, duly authorized to execute this Agreement through the express delegation of authority set forth in Article II of Chapter 46, Escambia County Code of Ordinances, and (Consultant Firm's Name), signing by and through its President, duly authorized to execute same.

CONSULTANT:

(Consultant Firm's Name), a for-profit corporation authorized to do business in the State of Florida.

By: _____
President

Date: _____

ATTEST: Corporate Secretary

By: _____
Secretary
[CORPORATE SEAL]

COUNTY:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

WITNESS: _____

By: _____
County Administrator

WITNESS: _____

Date: _____

BCC Approved: _____

**STANDARD PROFESSIONAL CONSULTING SERVICES
CONTRACT DOCUMENTS**

FOR

**AGREEMENT BETWEEN
ESCAMBIA COUNTY**

AND

**FORM G: CONSULTING SERVICES FOR STAND-ALONE
PROJECTS**

(Revised 2012)

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AGREEMENT

THIS AGREEMENT is made and entered into this ____th day of _____, 201_, by and between Escambia County, a political subdivision of the State of Florida (hereinafter referred to as "the County"), whose address is 221 Palafox Place, Pensacola, Florida 32502, and _____, a for-profit corporation authorized to transact business in the State of Florida, whose address is _____, (City), (State) (Zip), and whose Federal tax identification number is XX-XXXXXXX (hereinafter referred to as the "Consultant").

ARTICLE I **DEFINITIONS AND IDENTIFICATIONS**

For purposes of this Agreement and the various covenants, conditions, terms, and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are, therefore, agreed upon by the parties.

1.1 **BOARD OF COUNTY COMMISSIONERS:** The Board of County Commissioners of Escambia County, Florida, means the governing body of the Escambia County Government.

1.2 **CONSULTANT:** _____ is the Consultant selected to perform professional services pursuant to this Agreement.

1.3 **CONTRACT ADMINISTRATOR:** Whenever the term "Contract Administrator" is used herein, it is intended to mean (Name), (Title), (Department). In the administration of this contract, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

1.4 **CONTRACT SERVICES:** The intent of this Contract is to make available certain professional consultant services to Escambia County as outlined herein.

1.5 **COUNTY:** Escambia County is a body corporate and politic and a political subdivision of the State of Florida.

1.6 **LUMP SUM COMPENSATION:** Lump sum computation refers to the method of payment under this Agreement for the professional services of the Consultant.

1.7 **NOTICE TO PROCEED:** A Notice to Proceed is the written authorization issued by the County or the Contract Administrator to commence the Project.

1.8 **PROJECT:** It is the intent of this Agreement that the Consultant provide to the County certain professional services for _____.

ARTICLE 2

PREAMBLE

In order to establish the background, context, and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Under this Agreement, Escambia County will budget funds during Fiscal Year(s) XX-XX in the amount of _____ (\$ _____) for this Project.

2.2 The Board of County Commissioners has met the requirements of the Consultants' Competitive Negotiation Act, as contained in Section 287.055, Florida Statutes, as amended, and has selected the Consultant to perform the services hereunder.

2.3 Negotiations pertaining to the services to be performed by the Consultant were undertaken between Consultant and a committee selected by the Board of County Commissioners, and this Agreement incorporates the results of such negotiation.

ARTICLE 3

SCOPE OF WORK

The Consultant will provide certain professional consultant services for the tasks outlined in Escambia County's Request for Letters of Interest (RLI) in Specification No. PD XX-XX.XXX, _____, and as represented in the Consultant's Letter of Interest response to PD XX-XX.XXX, subsequent interview, and proposal presentation. In the event of a conflict between the terms of the proposal and this Agreement, the terms of this Agreement shall prevail.

3.1 The basic services to be provided are set forth in Exhibit "A," attached hereto and incorporated by reference herein, and unless otherwise specified, such services shall be completed in accordance with the standard care in the profession at the time such services are rendered.

3.2 Such services, generally, shall include those services performed by a consultant, its employees, and subcontractors, as more specifically enumerated in the Scope of Work of Exhibit "A" and any other services specifically included therein.

3.3 The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The consultant shall, without additional compensation, correct or revise any errors or omissions in its designs, drawings, specifications, and other services furnish pursuant to the Agreement.

(a) Neither the County's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

(b) The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies provided by law.

(c) If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

3.4 The Consultant shall accomplish the design services required under this Agreement so as to permit the award of a contract at a price that does not exceed the estimated construction contract price as set forth in paragraph (b) below. When bids or proposals for the construction contract are received that exceed the estimated price, the Consultant shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this Agreement. However, the Consultant shall not be required to perform such additional services at no cost to the County if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(a) The Consultant will promptly advise the County if it finds that the project being designed will exceed or is likely to exceed the funding limitations, and it is unable to design a usable facility within these limitations. Upon receipt of such information, the County will review the Consultant's revised estimate of construction cost. The County may, if it determines that the estimated construction contract price set forth in this Agreement is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (b) below, or the County may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the County shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation. In the event the county increases the amount in (b) below the compensation to the consultant may be increased equitably.

(b) The estimated construction contract price for the project described in the Agreement is \$_____.

3.5 The Consultant may be liable for County costs resulting from negligent, reckless or intentionally wrongful errors or omissions in designs furnished under this Agreement, or failure to timely perform its services under this Agreement. Therefore, when a modification to a construction contract is required because of a negligent, reckless or intentionally wrongful error or omission in the services provided under this Agreement, the County (with the advice of technical personnel and legal counsel) shall consider the extent to which the Consultant may be reasonably liable. The County shall enforce such liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the County's interest.

ARTICLE 4

TIME FOR PERFORMANCE

4.1 The schedule for completion of the Consultant's services shall be in accordance with Exhibit "B," which is attached hereto and made a part hereof. Such schedule may be modified from time to time upon the mutual consent of the County and the Consultant.

4.2 These services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Consultant's schedule for the performance of its services shall include allowances for periods of time required for the County's review and for its approval of submissions by the Consultant. Time limits established by this schedule, which are hereby approved by the County, shall not be exceeded by the Consultant, except for reasonable cause.

4.3 Prior to beginning the performance of any basic services under this Agreement, the Consultant must receive in writing a Notice to Proceed from the Contract Administrator.

ARTICLE 5

COMPENSATION AND METHOD OF BILLING AND PAYMENT

5.1 **COMPENSATION:** The County agrees to pay the Consultant, as compensation for its services under Section 3.1 of this Agreement, an aggregate fee for certain project tasks pursuant to the fee schedule set forth in Exhibit "C," attached hereto and made a part hereof. At the completion of each task, the Consultant will be compensated by a lump sum amount, which has been negotiated for that task, unless otherwise mutually agreed to by the parties hereto. The total fee for all such services, to be performed by the Consultant, including costs, direct expenses, and any other charges described in Section 5.3, is to be paid as follows: A lump sum amount of _____ (\$_____). Final payment will be subject to approval by the Board of County Commissioners.

5.2 **FEE SCHEDULE:** The "fee schedule," as used herein, shall mean the charges shown in Exhibit "C" for certain tasks to be performed by the Consultant. Such fees shall include, all inclusively the Consultant's salaries of professional and administrative staff, sick leave, vacation, unemployment, excise and payroll taxes, contributions for social security, unemployment compensation insurance, retirement benefits, medical and insurance benefits, air travel, auto travel, telephone, facsimile, reproduction costs, other routine overhead expenses, profit, and all other expenses of every type.

5.3 **DIRECT EXPENSES:** Direct expenses are those expenses directly attributable to the Project, which will be exclusively borne by Consultant, and are included in its aggregate fee, they shall include, but not be limited to, the following:

- (a) Transportation expenses in connection with the Project.
- (b) Living expenses in connection with travel and any other travel expenses.
- (c) Long distance communications and other miscellaneous budget expenses.
- (d) Cost of printing plans, drawings, and specifications which are required by or of the Consultant to deliver the services set forth in this Agreement. The Consultant agrees and understands that it will furnish to the County two (2) sets of all Project plans, reports, and specifications in a bound format acceptable to the County.

- (e) Cost of any software or hardware used or developed for the Project, including CAD/CADD time.

5.4 METHOD OF BILLING AND PAYMENT:

(a) For lump sum contracts, the Consultant may submit bills to the County at the completion and approval of each task or at the partial completion of a task on a pro-rata basis. However, requests for payment shall not be made more frequently than once a month. The Consultant shall submit such monthly statements identifying the nature of the work performed.

Calculations shall be made monthly of the amount and value of the work accomplished and services performed by the Consultant which meet the standards of quality established under this Agreement. The estimates shall be prepared by the Consultant and accompanied by such supporting data as required by the Contract Administrator.

(b) The County agrees that it shall pay the Consultant within forty five (45) business days of receipt of the Consultant's statement provided that the invoice is correct and is consistent with the terms of this Agreement.

(c) Payments under this Agreement and interest on any late payments shall be governed by the Florida Prompt Payment Act, §§ 218.70, et seq., as amended.

5.5 NOTICES:

(a) Any notice, invoice, payment, or other communication under this Agreement required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or other private courier service, such as Federal Express.

(b) Unless otherwise notified in writing of a new address, notices, payment, and invoices shall be made to each party at the below listed addresses. Rejection, or other refusal by the addressee to accept, or the inability of the courier service, or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

(c) Payments and Notices to the Consultant shall be made to:

(d) Invoices to the County shall be sent to: Notices to the County shall be sent to:

Pensacola, Florida _____

County Administrator
P.O. Box 1591
Pensacola, Florida 32597-1591

ARTICLE 6
ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK

6.1 The County or the Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Work to be provided under this Agreement. Such changes must be in accordance with the procurement policies of the County and must be contained in a written amendment, executed by the parties thereto, with the same formality and of equal dignity prior to any deviation from the terms of this Agreement, including the initiation of any extra work.

ARTICLE 7
COUNTY'S RESPONSIBILITIES

7.1 The County shall furnish to the Consultant, as required for performance of the Consultant's basic services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to this Project.

7.2 The County shall arrange for access to and make all provisions for the Consultant to enter upon public and private property as required for the Consultant to perform its services.

7.3 Within a reasonable time so as not to delay the services of the Consultant, the County shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Consultant, obtain advice of an attorney, insurance counselor, or other Consultants, as the County deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

7.4 The County shall furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

7.5 The County shall give prompt written notice to the Consultant whenever the County observes or otherwise becomes aware of any development that affects the scope of timing of the Consultant's services, or any defect in the work of the Consultant.

ARTICLE 8
CONSULTANT'S RESPONSIBILITIES

8.1 **QUALITY OF SERVICES:**

(a) The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished pursuant to this Agreement.

(b) To that end, the Consultant shall correct or shall revise, without additional compensation, any errors or omissions in its work product or shall make such revisions as are necessary as the result of the failure of the Consultant to provide an accurate,

more efficient, and properly constructable product in its designs, drawings, specifications, or other services.

(c) The County's review/approval/acceptance of or payment for the services required by this Agreement shall NOT be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. Additionally, the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

(d) The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies otherwise provided by law.

8.2 CONSULTANT PROFESSIONAL REGISTRATION AND CERTIFICATION:

(a) The design services provided to the County by the Consultant shall be certified by professional consultants registered to practice and in good standing in the State of Florida. Any project inspection services also shall be reviewed and shall be approved by such professional consultants.

(b) The survey services provided to the County by the Consultant shall be certified by professional land surveyors registered to practice and in good standing in the State of Florida.

(c) Permit applications to State and Federal agencies prepared by the Consultant shall be signed and shall be sealed by the Consultant, as the project's Consultant of Record. For all such permit applications, post-construction certification also shall be made by the Consultant to the appropriate State or Federal permitting agency.

ARTICLE 9 **GENERAL PROVISIONS**

9.1 OWNERSHIP OF DOCUMENTS:

(a) Drawings, specifications, design, models, photographs, reports, surveys, and other data, including intellectual property of any type or description, produced by the Consultant in connection with this Agreement are and shall remain the property of the County whether the Project for which they were made is completed or not. Such ownership also shall include any electronic files developed or created of such documents.

(b) When such documents are provided to other parties, the Consultant shall ensure return of the County's property by collecting, if appropriate, a deposit equal to the cost of reproduction. Such deposit shall be returned if the documents are timely returned in a useable condition. Otherwise, such deposit shall be retained by the Consultant.

9.2 TERMINATION:

(a) This Agreement may be terminated by either party for cause, or by the County for convenience, upon fourteen (14) days written notice by the terminating party to the other party of such termination in which event the Consultant shall be paid its compensation for services performed to termination date, including all reimbursable expenses then due or incurred to the date of termination.

(b) Termination for cause shall include, but not be limited to, misuse of funds, fraud, lack of compliance with applicable rules, laws, regulations, and ordinances, and failure to perform in a timely manner any provision of this Agreement.

(c) In no event shall a termination for convenience by the County be deemed a default, and any such termination shall not subject the County to any penalty or other claim for damages. If the Consultant abandons this Agreement or causes it to be terminated, the Consultant shall indemnify the County against any loss pertaining to this termination up to a maximum of 1.3 times the full contracted fee amount of the Project. All finished or unfinished documents, data, studies surveys, drawings, maps, models, photographs, and reports prepared by the Consultant shall become the property of the County and shall be immediately delivered by the Consultant to the County.

(d) Vendor suspension or debarment proceedings brought by County pursuant to Chapter 46, Article II, Division 2, Section 46-102, Escambia County Code of Ordinances, shall be grounds for immediate termination of this Agreement.

9.3 RECORDS:

(a) The Consultant shall keep such records and accounts and shall require any subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement and any expenses for which the Consultant expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by the County, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the County of any fees or expenses based upon such entries.

(b) The Consultant acknowledges that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the Consultant fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any right or remedy and after giving the Consultant and its surety, if any, seven (7) days written notice, during which period the Consultant still fails to allow access to such documents, terminate the employment of the Consultant. In such case, the Consultant shall not be entitled to receive any further payment. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Consultant (excluding monies owed the Consultant for subcontractor work).

9.4 NO CONTINGENT FEES: The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the County shall have the right to terminate the Agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

9.5 SUBCONTRACTORS: The County approves the use of subcontractors by the Consultant. In the event the Consultant, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, it must secure the prior written approval of the County for employment of such subcontractors.

9.6 ASSIGNMENT: This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the Consultant, without the prior written consent of the County. However, the Agreement shall run with the Escambia County Board of County Commissioners and its successors.

9.7 HOLD HARMLESS AND INDEMNIFICATION OF COUNTY:

The Consultant agrees to hold harmless and indemnify the County and its agents, officers, and employees from all liabilities, damages, losses, and costs, including attorneys' fees and paralegals' fees, incurred by County to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Consultant, or by any other person for whom the Consultant is legally liable. Consultant's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm or corporation to whom any portion of the Work is subcontracted by Consultant, and Consultant shall not be required to indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's and paralegal fees.

County and Consultant agree one percent (1%) of the Contract Amount paid by County to Consultant shall be given as separate consideration for this indemnification, and any other indemnification of County by Consultant provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Consultant by Consultant's acceptance and execution of the Agreement.

Consultant agrees that such indemnification by the Consultant relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any statutes of limitations thereafter. The Consultant's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

9.8 INSURANCE: The Consultant is required to carry the following insurance:

(a) Commercial General Liability with \$1,000,000 minimum per occurrence, including coverage parts of bodily injury, property damage, broad form property damage, personal injury, independent contractors, blanket contractual liability, and completed operations.

(b) Automobile Liability with \$1,000,000 per occurrence minimum combined single limits for all hired, owned, and non-owned vehicles.

(c) Professional Liability coverage with \$1,000,000 minimum limit, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

(d) Florida statutory workers' compensation and employers' liability with employer's liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.

(e) It is understood and agreed by the parties that in the event that the Consultant, as defined in Section 1.2, consists of a joint venture, partnership, or other association of professional or business firms, each such firm shall be required to individually carry the above cited coverages.

(f) All liability coverage shall be through carriers admitted to do business in the State of Florida. Carriers shall be a minimum financial size of VII, according to the latest edition of the A.M. Best Key Rating Guide. An A or better Best Rating is referred; however, other ratings if "Secure Best Ratings" may be considered. Liability policies shall be underwritten on the occurrence basis, except the professional and environmental impairment coverage may be provided on a claims made basis. Escambia County and the Board of County Commissioners shall be "additional insured's" on all liability policies (except professional liability). Certificates of insurance shall be provided to Joe Pillitary, Purchasing Manager, P.O. Box 1591, Pensacola, Florida 32597-1591 prior to commencement of work hereunder. Certificates shall reflect the additional insured status of Escambia County and shall provide for a minimum of thirty (30) days notice of cancellation. Escambia County and the Board of County Commissioners also shall be the certificate holders.

9.9 REPRESENTATIVE OF COUNTY AND CONSULTANT:

(a) It is recognized that questions in the day-to-day conduct of the Project will arise. The Contract Administrator, upon request by the Consultant, shall designate and shall advise the Consultant in writing, persons to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

(b) The Consultant shall inform the Contract Administrator in writing of the representative of the Consultant to whom matters involving the conduct of the Project shall be addressed.

9.10 ALL PRIOR AGREEMENTS SUPERSEDED:

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.

(b) It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

9.11 TRUTH-IN-NEGOTIATION CERTIFICATE: The signing of this Agreement by the Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

9.12 HEADINGS: Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

9.13 GRATUITIES: Neither the Consultant nor any of its employees, agents, and representatives shall offer or give to an officer, official, or employee of the County gifts, entertainment, payments, loans, or other gratuities. The Consultant acknowledges knowledge of the State of Florida's ethics statutes and to the extent applicable to the Consultant, the Consultant agrees to abide with such statutes.

9.14 CONFLICT OF INTEREST: The Consultant hereby certifies that it will completely disclose to the County all facts bearing upon any possible conflicts, direct or indirect, with its performance which it believes that any officer, employee, or agent of the Consultant now has or will have. Said disclosure shall be made by the Consultant contemporaneously with the execution of this Agreement and at any time thereafter that such facts become known to the Consultant. The Consultant at all times shall perform its obligations under this Agreement in a manner consistent with the best interests of the County. Failure to abide by this section shall

result in the immediate termination of this Agreement pursuant to Chapter 46, Article II, Division 4 of the Escambia County Code of Ordinances.

9.15 SURVIVAL: All other provisions which, by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

9.16 GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any matter which is a subject of this Agreement shall be in the County of Escambia.

9.17 INTERPRETATION: For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

(a) If the Consultant discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the Consultant shall immediately notify the County and request clarification of the County's interpretation of this Agreement.

(b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

9.18 SEVERABILITY: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

9.19 COMPLIANCE WITH LAWS: The Consultant shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement. Without limiting the generality of the foregoing, the Consultant shall observe all rules and regulations of federal, state, and local officials relating to the subject matter of this Agreement.

9.20 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY): In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment

eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

9.21 PARTICIPATION IN OTHER PROCEEDINGS: At the County's request, the Consultant shall allow itself to be joined as a party in any legal proceeding that involves the County regarding the design, construction, or installation of any matter which is the subject of this Agreement. This provision is for the benefit of the County and not for the benefit of any other party.

9.22 FURTHER DOCUMENTS: The parties shall execute and deliver all documents and perform further actions that may reasonably necessary to effectuate the provisions of this Agreement.

9.23 NO WAIVER: The failure of the Consultant or the County to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Escambia County, Florida through its Board of County Commissioners, signing by its County Administrator, duly authorized to execute this Agreement through the express delegation of authority set forth in Chapter 46, Article II of the Escambia County Code of Ordinances, and _____, signing by and through its President, duly authorized to execute same.

COUNTY:
ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: _____
County Administrator

Date: _____

BCC Approved: _____

CONSULTANT:
_____, a _____
Corporation authorized to do business in the State of Florida.

By: _____
(Name), (Title)

Date: _____

ATTEST: Corporate Secretary

By: _____
Secretary

**STANDARD PROFESSIONAL CONSULTING SERVICES
CONTRACT DOCUMENTS
FOR**

**AGREEMENT BETWEEN
ESCAMBIA COUNTY
AND**

FORM H: CONSULTING SERVICES FOR STUDY

(Revised 2012)

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AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Agreement is made this ____ day of _____, 201__, by and between Escambia County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as "County"), with administrative offices located at 221 South Palafox Place, Pensacola, Florida 32502, and _____, a for-profit corporation, authorized to do business in the State of Florida (hereinafter referred to as "Consultant"), whose federal identification number is _____, and whose principal address is _____.

WITNESSETH:

WHEREAS, Consultant is a firm with expertise in the area of providing consulting services for _____; and

WHEREAS, the County is in need of a consultant to provide such services for the County to _____.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the County and the Consultant agree as follows:

ARTICLE I **PREAMBLE**

1.1 The recitals contained in the preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.

1.2 The Board of County Commissioners has met the requirements of the Consultants' Competitive Negotiation Act, as contained in Section 287.055, Florida Statutes, as amended, and has selected the Consultant to perform the services hereunder.

1.3 Negotiations pertaining to the services to be performed by the Consultant were undertaken between Consultant and a committee selected by the Board of County Commissioners, and this Agreement incorporates the results of such negotiation.

ARTICLE 2 **SCOPE OF WORK**

2.1 The Consultant will provide certain professional consultant services for the tasks outlined in Escambia County's Request for Letters of Interest (RLI) in Specification No. PD _____ and as represented in the Consultant's Letter of Interest response to PD _____, subsequent interview, and proposal presentation. In the event of a conflict between the terms of the proposal and this Agreement, the terms of this Agreement shall prevail.

2.2 The basic services to be provided are set forth in Exhibit "A," attached hereto and incorporated by reference herein, and unless otherwise specified, such services shall be completed in accordance with the standard care in the profession at the time such services are rendered.

2.3 Such services, generally, shall include those services performed by a consultant, its employees, and subcontractors, as more specifically enumerated in the Scope of Work of Exhibit "A" and any other services specifically included therein.

2.4 The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or omissions in its designs, drawings, specifications, and other services furnish pursuant to the Agreement.

(a) Neither the County's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

(b) The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies provided by law.

(c) If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

ARTICLE 3 **TIME FOR PERFORMANCE**

3.1 The schedule for completion of the Consultant's services shall be in accordance with Exhibit "B," which is attached hereto and made a part hereof. Such schedule may be modified from time to time upon the mutual consent of the County and the Consultant.

3.2 These services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Consultant's schedule for the performance of its services shall include allowances for periods of time required for the County's review and for its approval of submissions by the Consultant. Time limits established by this schedule, which are hereby approved by the County, shall not be exceeded by the Consultant, except for reasonable cause.

3.3 Prior to beginning the performance of any basic services under this Agreement, the Consultant must receive in writing a Notice to Proceed from the Contract Administrator.

ARTICLE 4

COMPENSATION AND METHOD OF BILLING AND PAYMENT

4.1 The County agrees to pay the Consultant, as compensation for its services under this Agreement, an aggregate fee for certain project tasks pursuant to the fee schedule set forth in Exhibit "C," attached hereto and made a part hereof. At the completion of each task, the Consultant will be compensated by a lump sum amount, which has been negotiated for that task, unless otherwise mutually agreed to by the parties hereto. The total fee for all such services, to be performed by the Consultant, including costs, direct expenses, and any other charges is to be paid as follows: A lump sum amount of _____ (\$_____). Final payment will be subject to approval by the Board of County Commissioners.

4.2 **FEE SCHEDULE:** The "fee schedule," as used herein, shall mean the charges shown in Exhibit "C" for certain tasks to be performed by the Consultant. Such fees shall include, all inclusively the Consultant's salaries of professional and administrative staff, sick leave, vacation, unemployment, excise and payroll taxes, contributions for social security, unemployment compensation insurance, retirement benefits, medical and insurance benefits, air travel, auto travel, telephone, facsimile, reproduction costs, other routine overhead expenses, profit, and all other expenses of every type.

4.3 **DIRECT EXPENSES:** Direct expenses are those expenses directly attributable to the Project, which will be exclusively borne by Consultant, and are included in its aggregate fee, they shall include, but not be limited to, the following:

- (a) Transportation expenses in connection with the Project.
- (b) Living expenses in connection with travel and any other travel expenses.
- (c) Long distance communications and other miscellaneous budget expenses.
- (d) Cost of printing plans, drawings, and specifications which are required by or of the Consultant to deliver the services set forth in this Agreement. The Consultant agrees and understands that it will furnish to the County two (2) sets of all Project plans, reports, and specifications in a bound format acceptable to the County.
- (e) Cost of any software or hardware used or developed for the Project, including CAD/CADD time.

4.4 **METHOD OF BILLING AND PAYMENT:**

- (a) For lump sum contracts, the Consultant may submit bills to the County at the completion and approval of each task or at the partial completion of a task on a pro-rata basis. However, requests for payment shall not be made more frequently than once a month. The Consultant shall submit such monthly statements identifying the nature of the work performed.

Calculations shall be made monthly of the amount and value of the work accomplished and services performed by the Consultant which meet the standards of quality established under this Agreement. The estimates shall be prepared by the Consultant and accompanied by such supporting data as required by the Contract Administrator.

(b) The County agrees that it shall pay the Consultant within forty five (45) business days of receipt of the Consultant's statement provided that the invoice is correct and is consistent with the terms of this Agreement.

(c) Payments under this Agreement and interest on any late payments shall be governed by the Florida Prompt Payment Act, §§ 218.70, et seq., Florida Statutes, as amended.

ARTICLE 5

ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK

5.1 The County or the Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Work to be provided under this Agreement. Such changes must be in accordance with the procurement policies of the County and must be contained in a written amendment, executed by the parties thereto, with the same formality and of equal dignity prior to any deviation from the terms of this Agreement, including the initiation of any extra work.

ARTICLE 6

COUNTY'S RESPONSIBILITIES

6.1 The County shall furnish to the Consultant, as required for performance of the Consultant's basic services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to this Project.

6.2 The County shall arrange for access to and make all provisions for the Consultant to enter upon public and private property as required for the Consultant to perform its services.

6.3 Within a reasonable time so as not to delay the services of the Consultant, the County shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Consultant, obtain advice of an attorney, insurance counselor, or other Consultants, as the County deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

6.4 The County shall furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

6.5 The County shall give prompt written notice to the Consultant whenever the County observes or otherwise becomes aware of any development that affects the scope of timing of the Consultant's services, or any defect in the work of the Consultant.

ARTICLE 7

CONSULTANT'S RESPONSIBILITIES

7.1 QUALITY OF SERVICES:

(a) The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished pursuant to this Agreement.

(b) To that end, the Consultant shall correct or shall revise, without additional compensation, any errors or deficiencies in its work product or shall make such revisions as are necessary as the result of the failure of the Consultant to provide an accurate, more efficient product in its designs, drawings, specifications, or other services.

(c) The County's review/approval/acceptance of or payment for, the services required by this Agreement shall NOT be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. Additionally, the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

(d) The rights and remedies of the County provided for under this Agreement are in addition to any other rights and remedies otherwise provided by law.

ARTICLE 8

GENERAL PROVISIONS

8.1 OWNERSHIP OF DOCUMENTS:

(a) Drawings, specifications, design, models, photographs, reports, surveys, and other data, including intellectual property of any type or description, produced by the Consultant in connection with this Agreement are and shall remain the property of the County whether the Project for which they were made is completed or not. Such ownership also shall include any electronic files developed or created of such documents.

(b) When such documents are provided to other parties, the Consultant shall ensure return of the County's property by collecting, if appropriate, a deposit equal to the cost of reproduction. Such deposit shall be returned if the documents are timely returned in a useable condition. Otherwise, such deposit shall be retained by the Consultant.

8.2. TERMINATION:

(a) This Agreement may be terminated by either party for cause, or by the County for convenience, upon fourteen (14) days written notice by the terminating party to the other party of such termination in which event the Consultant shall be paid its compensation for services performed to termination date, including all reimbursable expenses then due or incurred to the date of termination.

(b) Termination for cause shall include, but not be limited to, misuse of funds, fraud, lack of compliance with applicable rules, laws, regulations, and ordinances, and failure to perform in a timely manner any provision of this Agreement.

(c) In no event shall a termination for convenience by the County be deemed a default, and any such termination shall not subject the County to any penalty or other claim for damages. If the Consultant abandons this Agreement or causes it to be terminated, the Consultant shall indemnify the County against any loss pertaining to this termination up to a maximum of 1.3 times the full contracted fee amount of the Project. All finished or unfinished documents, data, studies surveys, drawings, maps, models, photographs, and reports prepared by the Consultant shall become the property of the County and shall be immediately delivered by the Consultant to the County.

(d) Vendor suspension or debarment proceedings brought by County pursuant to Chapter 46, Article II, Division 2, Section 46-102, Escambia County Code of Ordinances, shall be grounds for immediate termination of this Agreement.

8.3 RECORDS:

(a) The Consultant shall keep such records and accounts and shall require any subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement and any expenses for which the Consultant expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by the County, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the County of any fees or expenses based upon such entries.

(b) The Consultant acknowledges that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the Consultant fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any right or remedy and after giving the Consultant and its surety, if any, seven (7) days written notice, during which period the Consultant still fails to allow access to such documents, terminate the employment of the Consultant. In such case, the Consultant shall not be entitled to receive any further payment. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Consultant (excluding monies owed the Consultant for subcontractor work).

8.4 CONFLICT OF INTEREST. Consultant agrees it shall not contract for or accept employment for the performance of any work or service with any individual, business corporation, or government unit that would create a conflict of interest in the performance of its obligations under this Agreement. Consultant further agrees it will neither take any action nor engage in any conduct that would cause any County employee or official to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government. Consultant also agrees to comply with the County's ordinance prohibiting conflicts of interest among retained consultants.

8.5 NO CONTINGENT FEES: The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the County shall have the right to terminate the Agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

8.6 SUBCONTRACTORS: The County approves the use of subcontractors by the Consultant. In the event the Consultant, during the course of the work under this Agreement, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, it must secure the prior written approval of the County for employment of such subcontractors.

8.7 ASSIGNMENT: This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the Consultant, without the prior written consent of the County. However, the Agreement shall run with the Escambia County Board of County Commissioners and its successors.

8.8 HOLD HARMLESS AND INDEMNIFICATION OF COUNTY:

The Consultant agrees to hold harmless and indemnify the County and its agents, officers, and employees from all liabilities, damages, losses, and costs, including attorneys' fees and paralegals' fees, incurred by County to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm, or corporation to whom any portion of the performance of this Agreement is subcontracted to or used by the Consultant, or by any other person for whom the Consultant is legally liable. Consultant's obligation as provided herein shall be limited to its proportionate share of liability to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Consultant or by any person, firm or corporation to whom any portion of the Work is subcontracted by Consultant, and Consultant shall not be required to indemnify and hold harmless County where County's negligence, recklessness, or intentional wrongful misconduct is determined by a court of competent jurisdiction to be the sole cause of its liabilities, damages, losses and costs, including attorney's and paralegal fees.

County and Consultant agree one percent (1%) of the Contract Amount paid by County to Consultant shall be given as separate consideration for this indemnification, and any other indemnification of County by Consultant provided for within the Contract Documents, the sufficiency of such separate consideration being acknowledged by Consultant by Consultant's acceptance and execution of the Agreement.

Consultant agrees that such indemnification by the Consultant relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any statutes of limitations thereafter. The Consultant's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

8.9 INSURANCE. The Consultant is required to carry the following insurance:

- (a) Commercial General Liability with \$1,000,000 minimum per occurrence, including coverage parts of bodily injury, property damage, broad form property damage, personal injury, independent contractors, blanket contractual liability, and completed operations.
- (b) Automobile Liability with \$1,000,000 per occurrence minimum combined single limits for all hired, owned, and non-owned vehicles.
- (c) Professional Liability coverage with \$1,000,000 minimum limit, except where the estimated construction contract price for the project described in the Agreement is greater than \$5 Million dollars, the minimum limit of professional liability coverage shall be equal to 25% of the estimated construction contract price for the project. Said coverage shall be continuously maintained and in effect for a period of not less than **five (5) years** from the effective date of this Agreement. The policy limit of liability shall not include legal fees and other defense costs. If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the effective date of this Agreement and shall not be advanced.

If at any time during the aforementioned policy period there should be a cancellation, non-renewal, or lapse in coverage, professional liability coverage shall be extended for the remainder of the five year period with a supplemental extended reporting period (SERP) endorsement to take effect upon expiration of the policy period referenced above. The limits of liability applicable to the SERP coverage shall be equal to the limits of liability applicable to the policy referenced above and to which the endorsement attaches.

- (d) Florida statutory workers' compensation and employers' liability with employer's liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.
- (e) It is understood and agreed by the parties that in the event that the Consultant consists of a joint venture, partnership, or other association of professional or business firms, each such firm shall be required to individually carry the above cited coverages.
- (f) Consultant agrees all liability coverage shall be through carriers admitted to do business in the State of Florida. Certificates of insurance shall be provided to the County prior to commencement of work hereunder. Certificates shall reflect the additional insured status of Escambia County and shall provide for a minimum of thirty (30) days notice of cancellation. Escambia County and the Board of County Commissioners also shall be the certificate holders.

8.10 REPRESENTATIVE OF COUNTY AND CONSULTANT:

(a) It is recognized that questions in the day-to-day conduct of the Project will arise. The Contract Administrator, upon request by the Consultant, shall designate and shall advise the Consultant in writing, persons to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

(b) The Consultant shall inform the Contract Administrator in writing of the representative of the Consultant to whom matters involving the conduct of the Project shall be addressed.

8.11 ALL PRIOR AGREEMENTS SUPERSEDED:

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.

(b) It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

8.12 TRUTH-IN-NEGOTIATION CERTIFICATE: The signing of this Agreement by the Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

8.13 HEADINGS: Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

8.14 GRATUITIES: Neither the Consultant nor any of its employees, agents, and representatives shall offer or give to an officer, official, or employee of the County gifts, entertainment, payments, loans, or other gratuities. The Consultant acknowledges knowledge of the State of Florida's ethics statutes and to the extent applicable to the Consultant, the Consultant agrees to abide with such statutes.

8.15 NOTICE. Any notice, payment or other communication under this Agreement required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or private courier service, such as Federal Express. Unless

otherwise notified in writing of a new address, notice shall be made to each party as follows:

To: _____
Attention: _____

To: County
Attention: County Administrator
221 Palafox Place
Pensacola, Florida 32502

Rejection, or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

8.16 SURVIVAL: All other provisions which, by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

8.17. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue shall be in the County of Escambia.

8.18 ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties and supersedes all prior oral or written agreements. Consultant acknowledges that it has not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements or warranties, except such as are expressed herein. The terms and conditions of this Agreement can only be amended in writing upon mutual agreement of the parties.

8.19 INTERPRETATION: For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

(a) If the Consultant discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the Consultant shall immediately notify the County and request clarification of the County's interpretation of this Agreement.

(b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

8.20 SEVERABILITY: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

8.21. COMPLIANCE WITH LAWS. Consultant agrees to comply with all federal, state and local laws, rules, policies, or guidelines related to the performance of this Agreement, including but not limited to properly registering as a lobbyist for representation of the County with the appropriate governmental entities as well as making all necessary lobbying reports in a timely manner to the proper authorities.

8.22 EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY): In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

8.23 PARTICIPATION IN OTHER PROCEEDINGS: At the County's request, the Consultant shall allow itself to be joined as a party in any legal proceeding that involves the County regarding the design, construction, or installation of any matter which is the subject of this Agreement. This provision is for the benefit of the County and not for the benefit of any other party.

8.24 FURTHER DOCUMENTS: The parties shall execute and deliver all documents and perform further actions that may reasonably necessary to effectuate the provisions of this Agreement.

8.25 NO WAIVER: The failure of the Consultant or the County to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a

waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

8.26 **ANNUAL APPROPRIATION.** Pursuant to the requirements of Florida law and Article II of Chapter 46, Escambia County Code of Ordinances, the County's performance and obligation to fund this Agreement shall be contingent upon an annual appropriation by the Escambia County Board of County Commissioners.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature. ESCAMBIA COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by its County Administrator, duly authorized to execute this Agreement through the express delegation of authority set forth in Article II of Chapter 46, Escambia County Code of Ordinances, and (Firm's Name), signing by and through its President, duly authorized to execute same.

COUNTY:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: _____
County Administrator

Date: _____

Witness: _____

Witness: _____

BCC Approved: _____

CONSULTANT: _____

By: _____, President

ATTEST:

By: _____

Corporate Secretary

(SEAL)