

## 2016 AE CM Minor Services Contract Forms & Procedures

### PROCEDURES:

- AE Invoicing Procedures
- Minor Projects Completion Checklist
- Project Manual with Supplements
- Pay Mode Brochure
- Guidelines for Preparation of Pre-Construction Services
- Procedures for Self-Performance

### FORMS:

- AE blank invoice
- Bid Tab Sheet
- Certificate of Contract Completion
- Certificate of Substantial Completion
- Change Order
- Change Order Justification
- Pay Application Form for Construction
- CM Rate Multiplier Template
- Construction Change Directive
- Contingency Modification (Must be accompanied by C.O. only if Contract amount or time changes)
- AE Performance Evaluation Form
- Construction Manager Performance Evaluation Form
- Off Site Stored Materials Agreement
- Assignment of Antitrust Claims (see minor project front end document)
- Trade Recommendation Form

FSU General Conditions & Supplementary General Conditions to be provided later

For more policy & procedures, Professional Services Guide & additional forms, see also:  
<https://www.facilities.fsu.edu/depts/designConstr/showForms.php>

# **PROCEDURES**

## A/E INVOICES

The A/E submits electronic, unsigned invoices to the FDC for approval. Invoices should be on our standard invoicing form and include a copy of the Purchase Order. The contract administrator reviews the invoice, checking that appropriate documentation (as described in the Professional Services Guide) is included and that all calculations are correct. If the work product described in the invoice has been approved by the project manager, the invoice is returned to the A/E, with instructions to resubmit after approval of the work product. After approval of the invoice, the FDC will upload the invoice into Echosign to route to the A/E and PM for digital signature/approval. It is then sent to the University Accounting Office for processing via EFT (See PayMode document for additional information). All invoices must be processed within the time limits described in Section 215.422, F. S.

# F.S.U. MINOR PROJECT COMPLETION CHECKLIST

PROJECT NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_

BUILDING & PROJECT NAME: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

ARCHITECT/ENGINEER: \_\_\_\_\_

DATE OF SUBSTANTIAL COMPLETION: \_\_\_\_\_

The following list of items MUST be achieved and/or submitted prior to final completion or final payment as delineated.

## **FINAL COMPLETION**

- \_\_\_ 1. Certificate of Contract Completion, Project Manual page #96.
- \_\_\_ 2. Certificate of Architect/Engineer, Project Manual page #97.
- \_\_\_ 3. Assignment of Antitrust Claims from all subcontractors and materials suppliers, Project Manual page #98.
- \_\_\_ 4. Certificate of Non-Segregated Facilities, Project Manual page #99.
- \_\_\_ 5. Letter of Certification of Completion of Punch List from Contractor.
- \_\_\_ 6. Completion of walk-thru and demonstration of electrical, HVAC, controls and other systems.
- \_\_\_ 7. Final Test and Balance Report.
- \_\_\_ 8. Building Department Certificate of Occupancy

## **FINAL PAYMENT**

- \_\_\_ 1. As-Built Drawings.
- \_\_\_ 2. All Warranties and Operation and Maintenance Manuals.
- \_\_\_ 3. Return of any keys that you may have.
- \_\_\_ 4. Consent of Surety for Final Payment.
- \_\_\_ 5. Final Payment Request.

- IMPORTANT:**
- 1. CONTRACTOR SHALL INITIAL BY EACH COMPLETED ITEM AND RETURN THIS FORM TO THE FSU PROJECT MANAGER
  - 2. ITEMS THAT ARE NOT APPLICABLE TO THIS PROJECT SHALL BE MARKED "N/A" AND INITIALED BY THE CONTRACTOR.

P R O J E C T M A N U A L

for

\_\_\_\_\_  
(name of project)

\_\_\_\_\_  
(location)

\_\_\_\_\_  
(br number)

\_\_\_\_\_  
(name of university)

by

The Florida State University

Set No. \_\_\_\_\_

Date Issued \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Name, Address, etc. of Architect/Engineer

PROJECT MANUAL

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(For newspaper, "Florida Administrative Weekly" or other legal publication. Also may be used as an invitation to bid.)

CALL FOR BIDS  
made by the Florida State University, State of Florida.

PROJECT NAME & NUMBER: \_\_\_\_\_

QUALIFICATION: All Bidders must be qualified at the time of bid opening in accordance with the Instructions to Bidders, Article B-2. Sealed bids will be received on:

DATE AND TIME: \_\_\_\_\_

PLACE: \_\_\_\_\_

at which time and place they will be publicly opened and read aloud.

PROPOSAL: Bids must be submitted in full and in accordance with the requirements of the drawings and Project Manual, which may be obtained or examined at the office of the ARCHITECT/ENGINEER: \_\_\_\_\_

Telephone: \_\_\_\_\_

MINORITY PROGRAM: Bidders are encouraged to utilize Minority Business Enterprises certified by the Office of Supplier Diversity, Department of Management Services.

PRE-BID/PRE-SOLICITATION MEETING: Bidders are encouraged to attend the pre-bid/pre-solicitation meeting. Minority Business Enterprise firms are invited to attend to become familiar with the project specifications and to become acquainted with contractors interested in bidding the project. The meeting has been scheduled for:

DATE AND TIME: \_\_\_\_\_

PLACE: \_\_\_\_\_

DEPOSIT: \$\_\_\_\_\_ per set of drawings and Project Manual is required with a limit of three (3) sets per general contractor or prime bidder; and two (2) sets of drawings and Project Manuals for plumbing, heating/ventilating/air conditioning and electrical contractors acting as subcontractors.

REFUND: The deposit shall only be refunded to those general contractors, prime bidders, or plumbing, heating/ventilating/air conditioning and electrical contractors acting as either prime or subcontractors, who after having examined the drawings and specifications:

- a. submit a bona fide bid, or
- b. provide written evidence that they have submitted bids as subcontractors for plumbing, heating/ventilating/air conditioning, or electrical work, and who return the drawings and Project Manual in good condition within fifteen (15) days after receipt of bids.

PURCHASE: Full sets of bidding documents may be examined at the Architect/Engineer's office and local plan rooms. Full sets may be purchased through the Architect/Engineer for \$\_\_\_\_\_ per set for the printing and handling cost. Partial sets will not be available.

PUBLIC ENTITY CRIMES: As required by Section 287.133, Florida Statutes, a contractor may not submit a bid for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The successful contractor must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$50,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.



INSTRUCTIONS TO BIDDERS  
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## INSTRUCTIONS TO BIDDERS

### B-1 PROJECT MANUAL TERMINOLOGY

INDEX OF TERMS: Whenever in these Instructions to Bidders the following terms (or pronouns which replace these terms) are used, their intent and meaning shall be interpreted as follows:

ADDENDA: A written or graphic instrument issued by the Architect/Engineer prior to the execution of the Contract which modifies or interprets the Bidding Documents by addition, deletion, clarification and/or correction.

AGREEMENT: "Agreement" shall mean the document entitled "Owner-Contractor Agreement for Construction".

ALTERNATE: An alternative use or type of material or an increase or decrease in the scope of the project, as specifically identified by the plans and/or the specifications.

ARCHITECT/ENGINEER: The firm identified in the Call for Bids. (See also Subparagraph 4.1.1 of the General Conditions.)

BASE BID: The sum stated in the Proposal for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added, or from which Work may be deleted for sum stated in Alternate Bids.

BIDDER: Any individual, firm, partnership or corporation submitting a proposal for the Work contemplated.

BIDDING DOCUMENTS: The Call for Bids, Instructions to Bidders, the Proposal Form, and the proposed Contract Documents, including any Addenda issued prior to receipt of bids.

CALL FOR BIDS: The "Call for Bids" consists of the Advertisement for Bids and/or the Invitation to Bid.

CONTRACT: The "Contract" is comprised of the Contract Documents as defined in Article 1 of the General Conditions and listed in the Owner-Contractor Agreement.

CONTRACTOR: Any individual, firm, partnership or corporation entering into an agreement to perform the Work specified herein.

DRAWINGS: The drawings or reproductions thereof pertaining to the Work to be performed and which have been prepared or approved by the Architect/Engineer.

OWNER: The Florida State University.

PROJECT MANUAL: All items listed in the Project Manual Index. (see page 3)

PROPOSAL:

A bid for the contemplated Work which the Bidder shall submit on approved forms.

PUBLIC ENTITY CRIME: A crime as defined in Sections 287.132 and 287.133, Florida Statutes.

SPECIFICATIONS: See subparagraph 1.1.6 of the General Conditions.

SURETY:

The corporate body which is bound with and for the Contractor, which is primarily liable and which guarantees the faithful performance of the Contract.

B-2 QUALIFICATION OF BIDDERS

PREQUALIFICATION

In order to be eligible to submit a Proposal, a Bidder must:

- (1) Where the scope of the Work falls within the provisions of Chapter 489, Florida Statutes, hold the required applicable license in good standing at the time of the receipt of bids;
- (2) Hold a currently active Florida Corporation Charter Number in accordance with Chapter 607, Florida Statutes, if the Bidder is a corporation;
- (3) Not be disqualified at the time of the bid submittal through disqualification procedures described in Chapter 6C-14.022, Florida Administrative Code;
- (4) Meet any special requirements set forth in the Special Conditions of this Project Manual; and,
- (5) Not have been convicted of a public entity crime, within 36 months prior to the bid date for this project.

B-3 FAMILIARITY WITH LAWS

The Bidder is required to be familiar with all federal, state and local laws, ordinances, rules and regulations that in any manner affect the Work. Ignorance on the part of the Bidder will in no way be considered relief from responsibility for compliance with their requirements. The application of Chapter 553 "threshold building" requirements to this project is specifically addressed in the Special Conditions of this Project Manual.

B-4 FLORIDA PRODUCTS AND LABOR

The Contractor's attention is called to Section 255.04, Florida Statutes, which requires that on public building contracts Florida products and labor shall be used wherever price and quality are equal, subject to considerations set forth in that Section of the Statutes relating to comparisons of

quality of materials, as well as qualifications, character, responsibility and fitness of materialmen, contractors, and builders proposed for employment.

#### B-5 TAXES

Contractors who purchase materials which will be used in the construction of a State-owned building will not be exempted from the sales tax on these materials.

The Owner is not subject to:

Federal excise taxes on materials or appliances that are incorporated into and become a part of the completed improvement.  
Federal tax on transportation of property.

In every case of purchase of materials to be incorporated in the Work which are subject to federal excise tax, the Owner will furnish to the Contractor the necessary Federal Excise Tax Exemption Certificate upon receipt of a copy of the supplier's invoice showing the item or items, the net price, and federal excise tax separately.

The Bidder shall take these factors into consideration in preparing the Proposal, including therein the cost of the state sales and use tax on materials, but excluding the cost of those taxes not applicable.

#### B-6 PROGRESS PAYMENTS

Based upon Applications for Payment submitted to the Architect/Engineer by the Contractor and Certificates for Payment issued by the Architect/Engineer, the Owner shall make monthly progress payments to the Contractor as noted in Article 9 of the General Conditions. Special requirements relating to payments for projects of less than \$100,000, which are exempt from the requirements for Payment and Performance Bonds, are addressed in the Special Conditions.

#### B-7 CONTRACT DOCUMENTS

Contract Documents are as described under Article 1 of the General Conditions and listed in the Agreement.

#### B-8 ALTERNATES

Alternates shall be listed on the Proposal Form in such a manner to clearly indicate what amounts are to be added to (or deducted from) the Base Bid. Failure of a Bidder to quote one or more Alternates may result in the bid being rejected. (See B-23)

#### B-9 ADDENDA

In case the Architect/Engineer finds it necessary to supplement, modify or interpret any portion of the Bidding Documents during the bidding period, such procedure will be accomplished by the issuance of written Addenda to the Bidding Documents which will be delivered or mailed to all known pro-

spective Bidders. Except for minor revisions, corrections, or clarification, Addenda will be issued no less than seven (7) calendar days prior to the date scheduled for receipt of bids. Minor revisions, corrections or clarifications will be issued as telegraphic addenda no less than three (3) calendar days prior to the date scheduled for the receipt of bids. Thereafter, the only addendum will be telegraphic and will be only to withdraw the request for bids, or to postpone the date for the receipt of bids.

#### B-10 INTERPRETATION OF BIDDING DOCUMENTS

No interpretation of the meaning of the Drawings, Specification, or other Bidding Documents, and no correction of any apparent ambiguity, inconsistency or error therein, will be made to any Bidder orally. Every request for such interpretation or correction shall be in writing, addressed to the Architect/Engineer. All such interpretations and supplemental instruction will be in the form of written addenda to the Bidding Documents.

Only the interpretation or correction so given by the Architect/Engineer, in writing, shall be binding. Bidders are advised that no other source is authorized to give information concerning, or to explain or interpret the Bidding Documents.

#### B-11 EXAMINATION OF BIDDING DOCUMENTS AND SITE OF WORK

Bidders are required, before submitting their Proposals, to visit the site of the proposed Work and completely familiarize themselves with the nature and extent of the Work and any local conditions that may in any manner affect the Work to be performed and the equipment, materials, and labor required. They are also required to examine carefully the drawings, specifications and other Bidding Documents, to inform themselves thoroughly regarding any and all conditions and requirements that may in any manner affect the Work.

#### B-12 BASIS FOR BIDDING - TRADE NAMES

For clarity of description and as a standard of comparison, certain equipment and materials have been specified by trade names or manufacturers. To insure a uniform basis for bidding, the Bidder shall base the Proposal on the particular systems, equipment or materials specified and approved substitutes as provided in Paragraph 3.19, Substitutes, of the General Condition. After bids are received, no equipment or materials will be approved as a substitute for the specified product.

#### B-13 BID GUARANTEE

Proposals shall be accompanied by a bid guarantee of not less than five (5) percent of the amount of the base bid. This bid guarantee may be a certified check; cashier's check, treasurer's check or bank draft of any national or state bank; or bid bond made payable to the Owner. Such check or bid bond shall be submitted with the understanding that it shall guarantee that the Bidder will not withdraw the bid for a period of forty-five (45) days after the scheduled closing time for the receipt of bids; that if the Proposal is accepted, the Bidder will enter into a written contract with the Owner in accordance with the Agreement included as a part of the Contract Documents, and that the required Labor and Materials Payment Bond and Performance Bond for projects in excess of \$100,000 will be given; and that in the event of failure to execute said Agreement and give said bonds within ten (10) days after receipt of the form of

Agreement and bonds from the Owner, the Bidder shall be liable to the Owner for the full amount of the bid guarantee as representing the damage to the Owner on account of the default of the Bidder in any particular hereof. The bid guarantees shall be returned to all Bidders after execution of the Agreement and the Labor and Materials Payment Bond and the Performance Bond have been approved by the Owner. If the required Agreement and bonds have not been executed within forty-five (45) days after the date of the opening of the bids, then the bid bond or check of any Bidder will be returned upon request, provided the Bidder has not been notified of the acceptance of the Bidder's Proposal prior to the date of such request.

#### B-14 SURETY COMPANIES ACCEPTABLE FOR THE FLORIDA BOARD OF REGENTS

To be acceptable to the Owner as Surety for Bid Bonds, a surety company must meet the following requirements at the time the invitation to bid is issued:

##### 1. Bid Bonds.

To be acceptable to the Board of Regents as Surety for Bid Bonds, a Surety Company must meet the following requirements at the time the invitation to bid is issued:

- a. Be in good standing with the Florida Department of Insurance.
- b. Be authorized or approved to do business in the State of Florida.
- c. Be authorized to write Surety Bonds in the State of Florida.
- d. The Bid Bond must be signed by a Florida Licensed Resident Agent who holds a current Power of Attorney from the Surety Company issuing the Bid Bond.
- e. Have twice the minimum surplus and capital required by the Florida Insurance Code.
- f. Be in compliance with all other provisions of Florida Insurance Code (no violation).
- g. Hold a current valid certificate of authority issued by the United States Department of Treasury under SS 31 USC 9304-9308.

##### 2. Performance Bonds and Labor and Material Payment Bonds.

For all projects in excess of \$100,000, the Contractor shall furnish the Owner with a State of Florida 100% Labor and Materials Payment Bond and a Performance Bond written by a Surety Company acceptable to the Owner and authorized to do business in the State of Florida and signed or countersigned by a Florida Licensed Resident Agent who holds a current Power of Attorney from the Surety issuing the Bond. Projects of \$100,000 or less are exempt from the requirement to provide such Bonds.

The cost of the Bonds shall be borne by the Contractor. The Bonds shall be accompanied by a duly authenticated or certified document, evidencing that the person executing the Bonds in behalf of the Surety had the authority to do so on the date of the Bonds. In the usual case the conferring of that authority has occurred prior to the date of the Bonds, and the document showing the date of appointment and enumeration of powers of the person executing the Bonds is

accompanied by a certification that the appointment and powers have not been revoked and remain in effect. The date of that certification cannot be earlier than the date of the Bonds. The Bonds shall not be dated earlier than the Agreement.

To be acceptable to the Owner as Surety for Bid Bonds, a surety company must meet the following requirements at the time the invitation to bid is issued:

- a. Be in good standing with the Florida Department of Insurance.
- b. Authorized or approved to do business in the State of Florida.
- c. Authorized to write Surety Bonds in the State of Florida.
- d. For projects for which the contract amount is \$500,000 or less:
  - (1) Have twice the minimum surplus and capital required by the Florida Insurance Code.
  - (2) Be in compliance with all other provisions of Florida Insurance Code (no violation).
  - (3) Hold a current valid certificate of authority issued by the United States Department of Treasury under SS 31 USC 9304-9308.
- e. For projects for which the contract amount is \$500,000 or greater:
  - (1) The Surety Company shall have been in business and have a record of successful continuous operation for at least five years, unless this provision is expressly deleted by addendum or by the Special Conditions to this Project Manual; and
  - (2) Except for asbestos contracts, for which a B rating is acceptable, the Surety Company shall have at least the following minimum ratings:

<u>CONTRACT AMOUNT</u>	<u>BEST RATING</u>	<u>REQUIRED FINANCIAL SIZE</u>
500,000 to 749,999	A	Class V
750,000 to 999,999	A	Class VI
1,000,000 to 1,499,999	A	Class VII
1,500,000 to 9,999,999	A	Class VIII
10,000,000 or more	A	Class IX

B-15 LISTING OF SUBCONTRACTORS

Each Bidder shall submit with the Proposal a full and proper list of the subcontractors who will perform the segments of the Work as indicated by the List of Subcontractors Form contained in this Project Manual.



The Bidder shall have determined to the Bidder's own complete satisfaction that a listed subcontractor has been successfully engaged in this particular type of business for a reasonable length of time, has successfully completed installations comparable to that which is required by this Contract and is qualified both technically and financially to perform that pertinent subcontract for which the subcontractor is listed. If a Bidder lists itself to perform a particular segment of the Work, it must hold the applicable license as required by law.

Subcontractors shall be listed in such a way that their identities may not be confused with other subcontractors doing business under the same or similar name. The street address or telephone number, or the registration or certification number shall be given on the Proposal form for this purpose.

#### B-16 PREPARATION AND SUBMISSION OF BIDS

Each Proposal shall be submitted on the form contained in the Project Manual and bid prices shall be indicated thereon in proper spaces, for the entire Work and for all Alternates. (See B-8)

In the event of a discrepancy in the bid amount on the Proposal between the numeric and written quotes, the written amount will govern.

Each Proposal must give the full business address of the Bidder and state whether it is an individual, corporation or partnership.

Proposals by a corporation must be signed with the legal name and seal of the corporation followed by the name of the state of its incorporation and the manual signature and designation of an officer, agent or other person authorized to bind the corporation.

#### B-17 BID MODIFICATIONS

Bid modifications will be accepted from Bidders, if addressed as indicated on the Proposal Form and if received prior to the Opening of Bids. No bid modification will be accepted after the close of bidding has been announced. Modifications may be in the form of telegrams or may be indicated in the modification space provided on the Proposal Form.

IMPORTANT NOTE: Modifications indicated on the outside of the sealed bid envelope and unsigned modifications will have no status and will not be a consideration of the bid award, but will not serve to disqualify the Bidder.

Modifications to a bid will be read by the Owner or Architect/Engineer prior to the reading of the formal bid.

#### B-18 WITHDRAWAL OF BIDS

Bids may be withdrawn on written or telegraphic request received from Bidders prior to the time fixed for opening of bids. Negligence on the part of the Bidder in preparing the Proposal confers no right for withdrawal of the bid after it has been opened. No bid may be withdrawn after the opening of bids is commenced.

#### B-19 RECEIPT AND OPENING OF BIDS

Bids shall be deposited at the designated location prior to the time for receipt of bids indicated in the Call for Bids, or any extension thereof made by Addendum. Bids received after the time for receipt of bids will not be accepted.

Bids will be publicly opened and read at the time and place stated in the Call for Bids. The officer whose duty it is to open them will decide when the specified time has arrived and no bids received thereafter will be considered. No responsibility will be attached to any officer for the premature opening of a bid not properly addressed and identified.

On the day of the reading of the Proposals, a tabulation of the bids will be posted at the location where the bids were opened.

#### B-20 DISQUALIFICATION OF BIDS

By submittal of a Proposal, a Bidder professes not to be disqualified from bidding State work nor under suspension resulting from conviction of contract crime including any act prohibited by state or federal criminal law which involves fraud, bribery, collusion, conspiracy, violation of state or federal antitrust laws, or material misrepresentation committed in any federal or state jurisdiction with respect to public contract.

Any or all Proposals will be rejected if there is reason to believe that collusion exists among the Bidders; no participants in such collusion will be considered in future Proposals for the same Work. Proposals in which prices obviously are unbalanced may be rejected by the Owner.

Falsification of any entry made on a Bidder's Proposal will be deemed a material irregularity and will be grounds for rejection.

B-21 REJECTION OF BIDS

The Owner reserves the right to reject any and all bids when in the opinion of the Owner such rejection is in the best interest of the Owner.

B-22 BID PROTEST

Any person who is affected adversely by the Owner's decision or intended decision shall file with the Director of Facilities Design and Construction, 109A Mendenhall, Tallahassee Florida 32306-4152, a notice of protest in writing within 72 hours, excluding Saturday, Sunday, and State legal holidays, after receipt of the bidding documents if the protest is directed toward the bidding conditions or after the notice of the owners decision or intended decision on contract award or bid rejection if the protest is directed toward contract award or bid rejection.

Thereafter, a formal written protest by petition in compliance with Section 120.53(5), and Section 120.57, F.S., must be filed within ten (10) days after the date the notice of protest was filed. Failure to file a timely notice of protest of failure to file a timely formal written protest petition shall constitute a waiver of protest proceedings. Any protest filed prior to receipt of the notice of the Owner's decision or intended decision will be considered abandoned unless renewed within the time limit provided for protests.

B-23 CONTRACT AWARD

The Contract will be awarded to the lowest qualified and responsible Bidder provided the bid is reasonable and it is in the best interest of the Owner to accept it.

The contract award will be made to that responsible Bidder submitting the low responsive aggregate bid within the pre-established construction budget. The aggregate bid shall consist of the base bid plus accepted additive alternate bids, applied in the numerical order in which they are listed on the bid form. If the base bid exceeds the amount of the pre-established construction budget, the Owner may reject all bids.

B-24 TIME OF COMPLETION AND LIQUIDATED DAMAGES

The work to be performed under this Contract shall be commenced within ten (10) calendar days after the date indicated on the Notice to Proceed, shall be substantially completed within \_\_\_\_\_ calendar days after the date indicated on the Notice to Proceed, and shall be finally completed within \_\_\_\_\_ calendar days after the date of Substantial Completion.

Inasmuch as failure to complete the Work within the above stated time will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, it is hereby agreed that if the work is not substantially completed, according to the definition of "Substantial Completion" in Article 8.4 of the Agreement, or within such further time, if any, as in accordance with the provisions of the Contract Documents shall be allowed for such Substantial Completion, the Contractor shall pay to the Owner as liquidated damages for such delay, and not as a penalty, \_\_\_\_\_ for each and every calendar day elapsing between the date fixed for Substantial Completion in Article 4.1 of the Agreement and the date such Substantial Completion is fully accomplished.

Said liquidated damages shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents.

This provision for liquidated damages for delay shall in no manner affect the Owner's right to terminate the Contract as provided in Article 14 of the General Conditions or elsewhere in the Contract Documents. The Owner's exercise of the right to terminate shall not release the Contractor from an obligation to pay said liquidated damages in the amount set out in Article 4.2 of the Agreement.

The Owner may, by Construction Change Directive, deduct from the balance retained by the Owner under the provisions of Article 4 of the Agreement, the liquidated damages stipulated therein or such portion thereof as the retained balance will cover.

#### B-25 MINORITY INVOLVEMENT PLAN

The Florida Small and Minority Assistance Act, Chapter 287, Florida Statutes, requires the involvement of minority business enterprises in the construction program. The Owner has adopted a program for their involvement. The application of that program to this Contract is set forth in the Special Conditions of this Project Manual.

#### B-26 SPECIAL CONDITIONS

Bidders shall be thoroughly familiar with the Special Conditions and their requirements.

#### B-27 PARTIAL SETS OF BIDDING DOCUMENTS

Familiarity with the full set of Bidding Documents is recommended to assure that the interface among trades is fully identified. The sale of a partial set of Bidding Documents is predicated upon the buyer having had the opportunity to examine a full set, and having accepted the full responsibility for determining that the purchased partial set provides the information necessary to convey the full requirements as revealed by the complete set. Neither the Owner nor the Architect/Engineer shall be liable for the information revealed on less than complete sets of Bidding Documents.

FROM: \_\_\_\_\_  
(Bidder's Name)  
  
\_\_\_\_\_  
(Address)  
  
\_\_\_\_\_  
(FL Corporate Charter Number)  
  
\_\_\_\_\_  
(Federal I.D. Number)

DATE: \_\_\_\_\_  
BIDS TO BE OPENED AT: \_\_\_\_\_  
TIME: \_\_\_\_\_  
PLACE: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(note: insert name and place  
bids are to be received)

If the Bidder wishes to make last  
minute modifications to the  
Proposal, the following spaces may  
be used (See B-17):  
To the Base Bid,  
Add \_\_\_\_\_  
Deduct \_\_\_\_\_  
To Alternate # \_\_\_\_\_  
Add \_\_\_\_\_  
Deduct \_\_\_\_\_

The undersigned, hereinafter called "Bidder," having visited the site of the  
proposed Project and having become familiar with the local conditions,  
nature and extent of the Work, and having examined carefully the drawings  
and the Project Manual, proposes to furnish all labor; materials, equipment  
and other items, facilities, and services for the proper execution and  
completion of \_\_\_\_\_ (Name and Address of  
Project), \_\_\_\_\_ (Project Number), in full accordance with the  
Contract Documents prepared by the firm of \_\_\_\_\_  
(Name and Address of the Architect/Engineer) in full  
accordance with the Call for Bids, Instructions to Bidders, Agreement and  
all other documents relating thereto on file in the Office of the Archi-  
tect/Engineer and if awarded the Contract, to complete said Work within the  
time limits specified for the following bid price:

Base Bid \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )

With the foregoing as a Base Bid, the following costs of alternate proposals  
are submitted in accordance with the drawings and specifications. All  
alternates must be quoted. (See B-8) Unless the Bidder specifically  
indicates on the Proposal Form that the quotation for the alternate is  
deductive, all quotations will be considered as additive to the Base Bid.

Alternate No. 1 Add (Deduct) \$ \_\_\_\_\_  
(Brief description by Architect/Engineer)

Alternate No. 2 Add (Deduct) \$ \_\_\_\_\_  
(Brief description by Architect/Engineer)

Alternate No. 3 Add (Deduct) \$ \_\_\_\_\_  
(Brief description by Architect/Engineer)

Alternate No. 4 Add (Deduct) \$ \_\_\_\_\_  
(Brief description by Architect/Engineer)

There is enclosed a cashier's check, bank draft, or Bid Bond in the amount of not less than five (5) percent of the Base Bid payable to the Florida Board of Regents, as a guarantee for the purpose set out in the Instructions to Bidders.

\_\_\_\_\_ Bidder Initial

There is enclosed a list of subcontractors as prescribed by Article B-15 of the Instructions to Bidders.

\_\_\_\_\_ Bidder Initial

The Bidder hereby agrees that:

- a. The above Proposal shall remain in full force and effect for a period of forty-five (45) calendar days after the time of the opening of this Proposal and that the Bidder will not revoke or cancel this Proposal or withdraw from the competition within the said forty-five (45) calendar days.
- b. In the event the contract is awarded to this Bidder, the Bidder will enter into a formal written Agreement with the Owner in accordance with the accepted bid within ten (10) calendar days after said Agreement is submitted to the Bidder and will furnish to the Owner a Performance Bond and a Labor and Materials Payment Bond with good and sufficient sureties, satisfactory to the Owner, in the amount of 100% of the accepted bid, on the forms and terms comprising Section F of the Project Manual. The Bidder further agrees that in the event of the Bidder's default or breach of any of the agreements of this Proposal, the bid deposit shall be forfeited as liquidated damages.
- c. Expenditure with minority business enterprises shall be consistent with the requirements of Article 1 of the Special Conditions, Minority Business Enterprise Requirements.

Acknowledgement is hereby made of receipt of the following Addenda issued during the bidding period.

Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____

Florida Construction Industries Licensing Board Certification

\_\_\_\_\_  
(Name of Holder)                                      (Certification Number)

SIGNED AND SEALED THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_

Title: \_\_\_\_\_

LIST OF SUBCONTRACTORS

(This list must be filled out in its entirety and must accompany the Proposal with the Bidder's signature of Page 2)

DATE: \_\_\_\_\_

This list is attached to, and is an integral part of the Proposal submitted by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Bidder to insert its full name and address)

For the construction of: \_\_\_\_\_

(insert project name, location and University project number)

The undersigned, hereinafter called "Bidder," lists below the names of subcontractors which will perform the segments of the work indicated. Only one subcontractor shall be listed for each subcontract except where the subcontract may be divided for award by the Bidder in one or more parts. In that event each subdivision shall be identified by the Bidder in the spaces provided below.

	<u>SUBCONTRACT</u>	<u>SUBCONTRACTOR</u>	<u>IDENTIFICATION*</u>
1.	HVAC	_____	_____
2.	PLUMBING	_____	_____
3.	ELECTRICAL	_____	_____
4.	ROOFING	_____	_____

\*Identification may be street address or telephone number; or registration or certification number.



SUBCONTRACTORS FOR ALTERNATES

This section is to be completed ONLY if the Bidder would like to make subcontractor changes dependent upon the Alternates accepted by the Owner.

In the event that the acceptance of alternates would change the subcontractor(s) listed on the previous page, these changes shall be so noted in the columns for the affected alternates. This shall be done by entering the name of the subcontractor in the appropriate place.

	Alt. #1	Alt. #2	Alt. #3	Alt. #4	Alt. #5
1) HVAC	_____	_____	_____	_____	_____
2) Plumbing	_____	_____	_____	_____	_____
3) Electrical	_____	_____	_____	_____	_____
4) Roofing	_____	_____	_____	_____	_____

Subdivisions  
of the above:


SUB-DIVISIONS OF THE LISTED SUBCONTRACT

This section is to be filled out ONLY if the Bidder intends to award one of the above listed subcontracts to more than one subcontractor. See Article B-15. (List only one subcontractor for each subdivision.)

<u>SUB-DIVISION</u> (Bidder must identify)	<u>SUBCONTRACTOR</u>	<u>IDENTIFICATION*</u>

By: \_\_\_\_\_  
Bidder's Signature

GENERAL CONDITIONS OF THE  
CONTRACT FOR CONSTRUCTION

THIS DOCUMENT HAS BEEN PREPARED BY THE OFFICE OF CAPITAL PROGRAMS, FLORIDA BOARD OF REGENTS FOR ITS USE IN CONNECTION WITH THE CONSTRUCTION PROGRAM FOR THE STATE UNIVERSITY SYSTEM OF FLORIDA. PORTIONS OF THIS DOCUMENT HAVE BEEN DERIVED FROM AIA DOCUMENT A201, 1987 EDITION. AIA COPYRIGHTED MATERIAL HAS BEEN REPRODUCED WITH THE PERMISSION OF THE AMERICAN INSTITUTE OF ARCHITECTS UNDER PERMISSION NUMBER 90005. FURTHER REPRODUCTION IS PROHIBITED.

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ARTICLE 1

GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary, Special and other Conditions), Drawings, Specifications, addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect/Engineer. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of addenda relating to bidding requirements).

### 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect/Engineer and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor. The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect/Engineer's duties.

### 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

### 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

### 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

### 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

### 1.1.7 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

## 1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 Execution of the documents shall be accomplished by: signing six (6) copies of the Agreement within which the Conditions of the Contract, the Drawings and the date of their latest revisions, the Specifications, and all Addenda issued prior to the signing of the Agreement are

identified. The Contractor shall execute and return all required forms of the Agreement within 10 days of their receipt. Failure to return all forms correctly executed within 10 days of receipt, without written extension by the Owner otherwise, shall constitute an irregularity and shall constitute grounds, at the Owner's option, either for rejection and forfeiture of Bid Bond or for the deduction on a day for day basis from the time allotted for completion of the Work under Article 4.1 of the Agreement. If the Contractor is a firm or company owned by an individual, the Agreement shall be executed in the name of the firm or company by the manual signature of the owner. If the Contractor is a partnership, the Agreement shall be executed in the name of the partnership by the manual signature of partner or partners. If the Contractor is a corporation, the Agreement shall be executed in the name of the corporation and shall bear the corporate seal. It may be signed for the corporation by the president and attested by the secretary; if signed for the corporation by any other officer than the president, the signature of such officer signing shall be attested by the secretary, and the executed Agreement shall be accompanied by a duly authenticated document bearing the seal of the corporation, quoting the section of the by-laws of the corporation authorizing the board of directors to designate such officer and copy of the resolution designating and authorizing him to execute on behalf of the corporation. That document must contain a statement that the authority is in effect on the date of the execution of the Contract, and may not be dated earlier than the date of the execution of the Contract. The same officer may not execute the Contract and authenticate the document of authority.

1.2.1.1 Performance and Payment bonds shall be executed on behalf of the Contractor in the same manner and by the same person who executed the Agreement.

~~1.2.1 The Contract Documents shall be signed by the Owner and Contractor as provided in the Agreement. If either the Owner or Contractor of both do not sign all the Contract Documents, the Architect shall justify such unsigned documents upon request.~~

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

1.2.3.1 Where reference is made to the Standard Specifications of the American Society for Testing and Materials (A.S.T.M.), or other standard specifications in connection with the required quality of materials, methods, etc., then the applicable specifications shall be of the latest revised edition effective as of the date bids are opened by the Owner, unless otherwise expressly provided in the technical specifications.

1.2.4 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.5 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### 1.3 OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 The Drawings, Specifications and other documents prepared by the Architect/Engineer are instruments of the Architect/Engineer's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set, and the Owner may retain two contract record sets. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect/Engineer, and unless otherwise indicated the Architect/Engineer shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. All copies of them, except the Contractor's record set and the Owner's record sets, shall be returned or suitably accounted for to the Architect/Engineer, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect/Engineer, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and Architect/Engineer. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect/Engineer appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect/Engineer. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect/Engineer's copyright or other reserved rights.

### 1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

### 1.5 INTERPRETATION

1.5.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and

"an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2  
OWNER

2.1 DEFINITION

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

~~2.1.2 The Owner upon reasonable written request shall furnish to the Contractor in writing information which is necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein at the time of execution of the Agreement and, within five days after any change, information of such change in title, recorded or unrecorded.~~

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 The Owner shall, at the request of the Contractor, prior to execution of the Agreement ~~and promptly from time to time thereafter,~~ furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. [Note: Unless such reasonable evidence were furnished on request prior to the execution of the Agreement, the prospective contractor would not be required to execute the Agreement or to commence the Work.]

2.2.2 The Owner shall furnish through the Architect/Engineer, necessary surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.

2.2.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

2.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in orderly progress of the Work.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals ~~as are reasonably necessary~~ for execution of the Work as established in the Special Conditions. If additional sets are required by the Contractor, they will be furnished upon request for the cost of printing and handling.

2.2.6 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors); and Article 9 (Payments and Completion) and Article 11 (Insurance and Bonds).

## 2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, or the Contractor or a Subcontractor has made false representation concerning the Minority Business Enterprise requirements, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

## 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order or Construction Change Directive shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect/Engineer's additional services and expenses made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect/Engineer. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## ARTICLE 3 CONTRACTOR

### 3.1 DEFINITION

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

### 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner

pursuant to Subparagraph 2.2.2 and shall at once report to the Architect/Engineer errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Architect/Engineer for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Architect/Engineer. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect/Engineer, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect/Engineer at once.

3.2.3 The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

### 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

3.3.5. The Architect/Engineer will schedule periodic construction meetings, which the Contractor shall be required to attend.

### 3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion



of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.1.1 It shall be the responsibility of the Contractor to provide at the Contractor's expense, the power, fuel and equipment necessary to maintain climatic conditions including humidity when specified or necessary for Work in progress.

3.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

### 3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect/Engineer that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### 3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### 3.7 PERMITS, FEES AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, including any connection permits required which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect/Engineer and

Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect/Engineer and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

### 3.8 ALLOWANCES

3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

- .1 materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;
- .2 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .3 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances;
- .4 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.2 and (2) changes in Contractor's costs under Clause 3.8.2.3.
- .5 the Contractor shall solicit from information provided by the Architect/Engineer at least three bids for all allowance items from subcontractors or material suppliers acceptable to the Owner, the Contractor and the Architect/Engineer. The Architect/Engineer shall review the bids and recommend to the Owner the acceptance or rejection of the lowest bid. If accepted the Architect/Engineer shall issue a change order to the Contractor as provided in Clause 3.8.2.4.

### 3.9 SUPERINTENDENT

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants acceptable to the Owner who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

### 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect/Engineer's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

3.10.2 The Contractor shall prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. The schedule of submittals shall indicate the dates by which the Architect/Engineer must notify the Contractor of the outcome of the review in order to avoid extension of the Contract Time.

3.10.3 The Contractor shall conform to the most recent schedules.

3.10.4 Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed with performance of the Work, the Contractor shall prepare and submit to the Architect/Engineer a construction schedule in quadruplicate. This schedule shall graphically depict the contemplated activities which are necessary incidents to performance of the Work, showing the sequence the Contractor proposes for each activity to occur and the duration (dates of commencement and completion, respectively) of each such activity.

3.10.5 Following development and submittal of the construction schedule as aforesaid, the Contractor shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the subject Work or at such earlier intervals as circumstances may require, update and/or revise the construction schedule to show the actual progress of the Work performed and the occurrence of all events which have affected the progress of performance of the Work already performed or which will affect the progress of performance of the Work yet to be performed. Each such update and/or revision to the construction schedule shall be submitted to the Architect/Engineer in quadruplicate. Failure of the Contractor to update, revise and submit the construction schedule as aforesaid shall be sufficient grounds for the Architect/Engineer to find the Contractor in substantial default and certify to the Owner that sufficient cause exists to terminate the Contract or to withhold payment to the Contractor until a schedule or schedule update acceptable to the Architect/Engineer is submitted.

3.10.6 The Contractor shall have the option of scheduling a Substantial Completion date occurring earlier than the date established by the Contract Documents for Substantial Completion; provided, however, in such event, such earlier Substantial Completion date will be recognized by the Owner only as a matter of convenience to the Contractor and shall not change the date for Substantial Completion established by the Contract Documents or be otherwise binding on the Owner or anyone under the Owner's control; and

provided further, however, in such event, should events occur during performance of the Work which would justify the granting to the Contractor of an extension of the Contract Time pursuant to the provisions of Article 8 of these General Conditions of the Contract for Construction, the Contractor shall be entitled to receive only such an extension of Contract Time as is determined by the Architect/Engineer to be due the Contractor as follows:

- .1 In the event the current Contractor's construction schedule indicates completion ahead of the contractually established date for Substantial Completion, the revised Substantial Completion date shall be determined by adding the total time directly affecting the critical path of the schedule to the end date of the current schedule. No extension of time beyond the contractually established date shall be granted until the aggregate of the current Contractor's construction schedule plus approved extension exceeds the date established by the Contract Documents, at which time the time extension granted will be the net difference between the contractually established date and the aggregate of the current Contractor's construction schedule plus approved extensions thereto.
- .2 In the event the current Contractor's construction schedule indicates completion at or after the contractually established date for Substantial Completion, the time extension shall only be added to the contractually established date for Substantial Completion.
- .3 The Owner will not grant time extensions based on improper scheduling of the Work.

### 3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

### 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Subparagraph 4.2.7.

3.12.4.1 Information submitted shall show the capacity, operating conditions and all engineering data and descriptive information necessary for comparison and to enable the Architect/Engineer to determine compliance with the specifications.

3.12.5 The Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

3.12.5.1 Shop Drawings shall be fully identified by Project Name, location, supplier's name, date, drawing number and specifications section reference. The Contractor shall submit four (4) copies (in addition to those copies necessary for the Contractor's own requirements) of all Shop Drawings and schedules, or any required resubmission thereof required for the Work of the various trades, to the Architect/Engineer for approval. The Contractor shall make no deviation from the approved drawings, and the changes made thereto by the Architect/Engineer, if any.

3.12.5.2 It shall be the responsibility of the Contractor to properly schedule the submission of Shop Drawings for approval to allow adequate time for checking of drawings, manufacture and shipment of items to job site in sufficient time to prevent delay in the construction schedule.

3.12.5.3 It shall also be the responsibility of the Contractor to coordinate the preparation of Shop Drawings of items which will be furnished by more than one manufacturer but are designed to interface when installed.

3.12.5.4 If and when required by the Architect/Engineer, the Contractor shall prepare and submit in triplicate to the Architect/Engineer a completely itemized Schedule of Shop Drawings, brochures and other descriptive literature, listing each and all such items as required under these specifications, which schedule shall indicate for each required item:

- .1 Identification as to pertinent Specification Division.
- .2 Item(s) involved.
- .3 Name of pertinent Subcontractor or supplier and the name of pertinent manufacturer.
- .4 Scheduled date of delivery of pertinent items to the project.

3.12.5.5 The Contractor shall require all Subcontractors to submit to the Architect/Engineer through the Contractor complete brochures covering all materials and/or equipment proposed for use in the execution of the Work as required by their respective Divisions of the Specifications. These brochures shall be indexed and properly cross-referenced to the plans and specifications for easy identification.

3.12.5.6 A list of all materials and equipment, together with manufacturers' drawings and catalog information shall be submitted to the Architect/Engineer for approval prior to ordering material or equipment but not later than 45 days after the date of the Notice to Proceed. Information submitted shall show the capacity, operating conditions and all engineering data and descriptive information. The Architect/Engineer's approval will not relieve the Contractor of the responsibility for performance of any terms of the Contract Documents.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.7.1 Shop Drawings submitted to the Architect/Engineer for approval shall first be checked and approved by the Contractor, the evidence of which shall be a "checked" stamp marked "Approved", or "Approved as Noted" on each copy of each Shop Drawing, placed thereon by the Contractor. Shop Drawings received without the Contractor's "checked" stamp will be cause for immediate return without further action. Each drawing correctly submitted will be checked by the Architect/Engineer and marked "Approved" or "Not Approved".

3.12.7.2 Resubmittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time.

3.12.7.3 At no time shall Shop Drawings which have not been approved by the Architect/Engineer be allowed on the site.

3.12.8 The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and the Architect/Engineer has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect/Engineer's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect/Engineer on previous submittals.

3.12.10 Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

~~3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.~~

### 3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### 3.14 CUTTING AND PATCHING

3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.14.3 Existing structures and facilities, including but not limited to buildings, utilities, topography, streets, curbs, walks, landscape materials, and other improvements that are damaged or removed due to required excavations or Contractor's Work, shall be patched, repaired, or replaced by the Contractor to the satisfaction of the Architect/Engineer, the owner of such structures and facilities, and authorities having jurisdiction. In the event that local authorities having jurisdiction require that such repairing and patching be done with their own labor and materials, the Contractor shall abide by such regulations and pay for such work.

### 3.15 CLEANING UP

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

### 3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect/Engineer access to the Work in preparation and progress wherever located.

### 3.17 ROYALTIES AND PATENTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Architect/Engineer harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect/Engineer.

### 3.18 INDEMNIFICATION

3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect/Engineer, Architect/Engineer's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees and court costs, arising out of or resulting from performance or non-performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect/Engineer, the Architect/Engineer's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports,



surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect/Engineer, the Architect/Engineer's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

3.18.4 Prior to commencing any excavation or grading the Contractor shall become satisfied as to the accuracy of all survey data as indicated in the Contract Documents and/or as provided by the Owner. Should the Contractor discover any inaccuracies, errors, or omissions in the survey data, the Contractor shall immediately notify the Architect/Engineer in writing in order that proper adjustments can be made. Commencement by the Contractor of any excavation or grading shall be held as an acceptance of the survey data by the Contractor after which time the Contractor has no claims against the Owner resulting from alleged errors, omissions or inaccuracies of the said survey data except for conditions as described in Paragraph 4.3.6.

3.18.5 The Contractor acknowledges that ten dollars has been included in the Contractor's base bid, which represents the cost to the Owner for the provision of the indemnification required in accordance with this Paragraph 3.18.

3.18.6 The Contractor agrees that, upon receiving award of the Contract for construction, the Contractor will execute and deliver to the Owner an Assignment of Antitrust Claims as set forth in Section H of the Project Manual.

3.18.7 The Contractor also agrees that prior to final payment, the Contractor will cause each of his suppliers and Subcontractors who have furnished services, goods or materials in connection with the performance of the Work to execute and deliver to the Owner an Assignment of Antitrust Claims in the same form as specified above.

### 3.19 SUBSTITUTIONS

3.19.1 Substitutions for a specified system, product or material may be requested of the Architect/Engineer, and the Architect/Engineer's written approval must be issued as an addendum before substitutions will be allowed. All requests for substitutions must be submitted prior to the opening of bids, and approvals shall be granted no less than seven (7) days prior to the bid date. Substitutions requested after that date will receive no consideration. Substitutions are changes in materials, equipment, methods or sequences of construction, design, structural systems, mechanical, electrical, air conditioning controls, or other requirements of the Drawings or the Specifications.

3.19.2 In substituting materials or equipment, the Contractor assumes responsibility for any changes in systems or for modifications required in adjacent or related work to accommodate such substitution, despite the Architect/Engineer approval, and all costs growing out of the approval shall be the responsibility of the Contractor. None of the extra costs

resulting from such approval shall devolve upon the Owner, the Architect/Engineer or other contractors. The Architect/Engineer will be responsible for all architectural or engineering revisions to the drawings and shall be reimbursed by the Contractor for the costs of effecting such revisions.

3.19.3 In making requests for substitutions the Contractor shall list the particular system, product, or material for which a substitution is requested and the justification for such a request. Requests submitted shall include any and all adjustments required by the substitution and any other Work affected thereby. The Architect/Engineer may reject a substitution for material reasons or the rejections may be based on aesthetics for which the Architect/Engineer shall be the sole judge.

#### ARTICLE 4 ADMINISTRATION OF THE CONTRACT

##### 4.1 ARCHITECT/ENGINEER

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Engineer is the person lawfully licensed to practice engineering or an entity lawfully practicing engineering identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect or the Engineer or the Architect's authorized representative of either.

~~4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.~~

~~4.1.2~~ 4.1.3 In case of termination of employment of the Architect/Engineer, the Owner shall appoint an architect or an engineer against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former architect/engineer.

~~4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to arbitration.~~

##### 4.2 ARCHITECT/ENGINEER'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect/Engineer will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is ~~due~~ made and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect/Engineer will advise and consult with the Owner. The Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The Architect/Engineer will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect/Engineer will not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. On the basis of on-site observations as an architect or as an engineer, the Architect/Engineer will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.2.3 The Architect/Engineer will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect/Engineer will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Architect/Engineer's observations and evaluations of the Contractor's Applications for Payment, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.5.1 The authorized representatives and agents of the Architect/Engineer, Owner, and such other persons as the Owner may designate shall have access to and be permitted to inspect all Work, subcontracts, materials, payrolls, records of personnel, invoices of materials and other relevant data and records wherever they are in preparation and progress. The Contractor shall provide proper facilities for such access and inspection and, when required, exact duplicate copies of the aforementioned data shall be furnished.

4.2.6 The Architect/Engineer will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibi-

lity of the Architect/Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 The Architect/Engineer will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect/Engineer's professional judgement to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3., 3.5 and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.8 The Architect/Engineer will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4.

4.2.9 The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in Clauses 4.2.10.1 and 4.2.10.2. ~~an exhibit to be incorporated in the Contract Documents.~~

4.2.10.1 The Architect/Engineer's Project Representative(s) will:

- .1 Assist the Contractor in obtaining interpretation of the Contract Documents from the Architect/Engineer.
- .2 Conduct daily on-site observations for determining conformance to the Contract Documents in regard to Work, materials and equipment, etc.

- .3 Request additional detail and/or information from the Architect/Engineer when needed by the Contractor.
- .4 Evaluate suggestions and/or modifications submitted by the Contractor and transmit these to the Architect/Engineer with recommendations.
- .5 Observe problems which may create delays in construction and report these to the Architect/Engineer.
- .6 Maintain official relationship only with the Contractor and his job superintendent(s) regardless of which Subcontractor's Work is involved.
- .7 Attend all required construction conferences and participate in discussions of the Work.
- .8 Maintain a daily log of Work activity including but not limited to: hours on the job site, weather conditions, daily construction activity, number of men in each trade on the site, with specific identification of ongoing MBE activities, general observations, written directives to the Contractor, and visitors.
- .9 If, upon inspections or observations, Work is found not to be in accordance with Contract Documents, advise Contractor verbally and in writing, that the Work is not in accordance with the Contract Documents. Consult with Architect/Engineer for further directions if the Contractor refuses to correct the Work.
- .10 Observe and record that tests and inspections required to be performed by others, in addition to those performed by Architect/Engineer's representative and/or the Architect/Engineer, are actually performed, in accordance with the Contract Documents.
- .11 When requested by the Owner, accompany all state and federal officials on inspections of construction and record the inspection in the log.
- .12 Cooperate with university's authorized representative and provide the representative with all requested information about the Work.
- .13 Accept no directions or instructions from anyone other than the Architect/Engineer.
- .14 Maintain in an orderly manner, files of correspondence, reports of job conferences, shop drawings and samples, copies of Contract Documents, change orders, addenda, supplementary drawings, and job log.
- .15 Review Applications for Payment submitted by Contractor and recommend to the Architect/Engineer for appropriate action.

- .16 Participate in the observations of construction with the Architect/Engineer and the university's authorized representative at regular intervals and at Substantial Completion.
- .17 Refer all communications from university's authorized representative to the Architect/Engineer.
- .18 Copy university's authorized representative on all correspondence related to the Project.
- .19 Review plans, specifications and approved shop drawings on a regular basis. Advise the Architect/Engineer immediately upon discovery of any errors and omissions in the Contract Documents, or of construction problems.
- .20 Advise Contractor and Architect/Engineer of Work being performed without approved shop drawings when such shop drawings are required by specifications.
- .21 Check materials and equipment delivered to the job site against specifications, approved samples, shop drawings and related correspondence. When observed to be in conflict, advise Contractor and Architect/Engineer.
- .22 Check that Contractor is maintaining record drawings of as-built conditions, from which contract record sets are to be developed.
- .23 Act as liaison between the Contractor and the university's authorized representative in the coordination of the Contractor's schedule and the University's requirements.
- .24 Provide such other services as may be required in the Owner's or Architect/Engineer's interests or in the advancement of the Work.

4.2.10.2 The Architect/Engineer's Project Representative is not authorized to do the following:

- .1 Authorize deviations from the Contract Documents (unless approved in writing by Architect/Engineer).
- .2 Expedite the Work for the Contractor.
- .3 Advise the Contractor on building techniques or scheduling.
- .4 Approve Shop Drawings.
- .5 Issue Certifications for Payment.
- .6 Approve Substitutions.
- .7 Get involved in disputes or problems between Subcontractor and Sub-subcontractor.

- .8 Get involved in disputes or problems between Contractor and Subcontractor.
- .9 Offer advice to Contractor or Subcontractors on how to perform the Work whether solicited from the Contractor or not.
- .10 Shut down the job except in extreme emergencies and except under certain conditions as authorized by the Architect/Engineer.

4.2.11 The Architect/Engineer will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made within 15 days after written request is made for them. ~~with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.~~

4.2.12 Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.2.13 The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

#### 4.3 CLAIMS AND DISPUTES

4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Decision of Architect/Engineer. Claims, including those alleging an error or omission by the Architect/Engineer, shall be referred initially to the Architect/Engineer for action as provided in Paragraph 4.4. A decision by the Architect/Engineer, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to ~~arbitration or~~ litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect/Engineer in response to a Claim shall not be a condition precedent to ~~arbitration or~~ litigation in the event (1) the position of Architect/Engineer is vacant,

(2) the Architect/Engineer has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect/Engineer has failed to take action required under Subparagraph 4.4.4 within 30 days after the Claim is made, or (4) 45 days have passed after the Claim has been referred to the Architect/Engineer or ~~(5) the Claim relates to a mechanic's lien.~~ ] ?

4.3.3 Time Limits on Claims. Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted ~~in a timely manner~~ within the time limits provided in this Subparagraph 4.3.3.

4.3.4 Continuing Contract Performance. Pending final resolution of a Claim including ~~arbitration~~ litigation, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from: ?

- .1 ~~liens~~, Claims, security interest or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.
- .4 damages including attorneys' fees and costs incurred by the Owner resulting from lawsuits brought against the Owner, the Architect/Engineer or their agents, employees or representatives because of acts or omissions on the part of the Contractor, any Subcontractor, or any of their employees, agents or representatives.

4.3.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect/Engineer will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect/Engineer determines that the conditions at the site are not materially different from those indicated in the Contract Documents



and that no change in the terms of the Contract is justified, the Architect/Engineer shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect/Engineer has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect/Engineer for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect/Engineer, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect/Engineer, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

#### 4.3.8 Claims for Additional Time

4.3.8.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.3.8.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

#### 4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 The Architect/Engineer will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect/Engineer expects to take action, (3) reject the Claim in whole or in part, stating reasons for

rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect/Engineer may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Architect/Engineer will prepare or obtain appropriate documentation.

4.4.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect/Engineer's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect/Engineer, (2) modify the initial Claim or (3) notify the Architect/Engineer that the initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect/Engineer, the Architect/Engineer will notify the parties in writing that the Architect/Engineer's decision will be made within seven days, which decision shall be final and binding on the parties but subject to arbitration resolution as provided in Paragraph 4.5. Upon expiration of such time period, the Architect/Engineer will render to the parties the Architect/Engineer's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect/Engineer may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

#### ~~4.5 ARBITRATION~~

~~4.5.1 Controversies and Claims Subject to Arbitration. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgement upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies or Claims relating to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5. Such controversies or Claims upon which the Architect has given notice and rendered a decision as provided in Subparagraph 4.4.4 shall be subject to arbitration upon written demand of either party. Arbitration may be commenced when 45 days have passed after a Claim has been referred to the Architect as provided in Paragraph 4.3 and no decision has been rendered.~~

~~4.5.2 Rules and Notices for Arbitration. Claims between the Owner and Contractor not resolved under Paragraph 4.4 shall, if subject to arbitration under Subparagraph 4.5.1, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party to the Agreement between the Owner and Contractor and with the American Arbitration Association, and a copy shall be filed with the Architect.~~

~~4.5.3 Contract Performance During Arbitration. During arbitration proceedings, the Owner and Contractor shall comply with Subparagraph 4.3.4.~~

~~4.5.4 When Arbitration May Be Demanded. Demand for arbitration of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim, (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date, or (3) any of the five events described in Subparagraph 4.3.2.~~

~~4.5.4.1 When a written decision of the Architect states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.~~

~~4.5.4.2 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.5.1 and 4.5.4 and Clause 4.5.4.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.~~

~~4.5.5 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

~~4.5.6 Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence or~~

~~4.5.6 Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.~~

~~4.5.7 Judgement on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

#### 4.5 LEGAL RECOURSE

4.5.1 The finding of the Architect/Engineer shall be a required condition precedent to further action by the Owner or Contractor as follows:

- .1 Claims of \$100,000 or less in value shall be conducted pursuant to and under the procedures of the Administrative Procedures Act, Chapter 120, Florida Statutes;
- .2 All other claims, disputes and other matters not governed by the foregoing shall be determined under the judiciary system of the State of Florida.

### ARTICLE 5 SUBCONTRACTORS

#### 5.1 DEFINITIONS

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

~~5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract~~ Within thirty (30) days after the date of the Notice to Proceed, the Contractor, in compliance with the requirements of the Contract Documents, shall furnish in writing to the Owner and through the Architect/Engineer the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

5.2.3 If the Owner or Architect/Engineer has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect/Engineer has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect/Engineer makes reasonable objection to such change including, but not limited to, objections related to MBE participation.

5.2.5 The Contractor and the Subcontractors shall, within 45 days of the date of the Notice to Proceed, provide the names of all major Sub-subcontractors and/or material and equipment manufacturers. The following list is suggested but can be reduced or expanded at the discretion of the Architect/Engineer or as directed by the Owner:

- .1 landscaping
- .2 paving contractor (concrete, asphaltic concrete)
- .3 concrete supplier
- .4 masonry - concrete/brick
- .5 structural and miscellaneous iron
- .6 millwork (architectural)
- .7 thermal and moisture protection below and above including roof
- .8 windows, curtainwall, hollow metal doors and frames, hardware
- .9 floor, wall and ceiling finishes and systems
- .10 major specialties
- .11 major equipment
- .12 furniture, movable screens, fixed seating
- .13 special construction
- .14 elevators, escalators
- .15 plumbing fixtures, special piping, traps, sumps, etc., mechanical equipment, monitoring and automation controls, etc.
- .16 electrical fixtures, controllers, switchgears, devices, transformers, etc.

5.2.6 The Contractor understands and agrees that the Contractor alone is responsible to the Owner for all of the Work under the Contract and that any review of Subcontractors or Sub-subcontractors by the Owner or Architect/Engineer will not in any way make the Owner responsible to any Subcontractor or Sub-subcontractor, nor will it make the Owner responsible for the actions or omissions of any Subcontractor or Sub-subcontractor.

### 5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect/Engineer under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Subsubcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

~~5.4.2 If the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.~~

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by

the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

~~6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.~~

## 6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

### 6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect/Engineer determines to be just.

## ARTICLE 7 CHANGES IN THE WORK

### 7.1 CHANGES

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect/Engineer; a Construction Change Directive requires agreement by the Owner and Architect/Engineer and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect/Engineer as provided in Paragraph 7.4. alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### 7.2 CHANGE ORDERS

7.2.1 A Change Order is a written instrument prepared by the Architect/Engineer and signed by the Owner, Contractor and Architect/Engineer, stating their agreement upon all of the following:

- .1 a change in the Work;
- .2 the amount of the adjustment in the Contract Sum, if any; and
- .3 the extent of the adjustment in the Contract Time, if any.

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.



7.2.3 All Change Orders must be on the Board of Regents Change Order form, included in Section H of the Project Manual.

### 7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1 A Construction Change Directive is a written order prepared by the Architect/Engineer and signed by the Owner and Architect/Engineer, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. The Construction Change Order Directive form is provided in Section H of the Project Manual.

7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 a not-to-exceed amount based on unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and ~~a mutually acceptable fixed or~~ percentage fee as provided in Subparagraph 7.3.12; or
- .4 as provided in Subparagraph 7.3.6.

7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect/Engineer of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment and the not-to-exceed amount shall be determined by the Architect/Engineer on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, the stipulated ~~a reasonable~~ allowance for overhead and profit as stated in Subparagraph 7.3.12. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect/Engineer may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' or workmen's compensation insurance;
- .2 costs of materials, supplies and equipment, including sales tax and cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

7.3.7 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect/Engineer. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.8 If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect/Engineer for determination.

7.3.9 When the Owner and Contractor agree with the determination made by the Architect/Engineer concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.3.10 The Cost of the Change shall not include any of the following items:

- .1 Salaries or other compensation of the Contractor's personnel at the Contractor's offices, including the field office, unless direct additional expense has been incurred exclusively because of the change;
- .2 Expenses of the Contractor's offices, including the field office;
- .3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital;
- .4 Costs due to the negligence of the Contractor, any Subcontractor, any Sub-subcontractor, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, the correction of defective or nonconforming Work, disposal of materials and equipment wrongly supplied, or making good any damage to property; or,

.5 Overhead, general expense, and the cost of any item not specifically or reasonably inferable as included in the items described in Subparagraph 7.3.6.

7.3.11 The Contractor shall check all materials, equipment and labor entering into the Work as a result of changes in the Work and shall keep such full and detailed accounts as may be necessary for proper financial management under the Contract, and the system shall be satisfactory to the Owner. The Owner shall be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to changes in the Contract.

7.3.12 The percentage fee for overhead and profit combined, to be added to the Cost of the Change in determining the total cost to the Owner, shall be based upon the following schedule:

.1 For any Work performed by the Contractor's own forces, 15% of the Cost of the Change;

.2 For any Work performed by a Subcontractor or forces under the Subcontractor including any Sub-subcontractors or other persons not in the direct employ of the Subcontractor, a total of 22-1/2% of the Cost of the Change, with 15% to be assigned to the Subcontractor and any forces under him and 7-1/2% to be assigned to the Contractor.

7.3.13 If a change in the Work results in a credit to the Owner, the credit shall be the net Cost of the Change as defined in Subparagraphs 7.3.6 and 7.3.10 and shall not include any allowance for the Contractor's or Subcontractors' overhead and profit.

#### 7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect/Engineer will have authority, after receiving the Owner's approval, to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

### ARTICLE 8 TIME

#### 8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the notice to proceed Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

## 8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. ~~Unless the date of commencement is established by a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.~~

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

## 8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending resolution of Claims or other matters in question arbitration, or by other causes which the Architect/Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer may determine.

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3

8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents, except that in instances of delays due to adverse weather conditions and labor disputes, Claims for extended overhead costs will not be allowed.

## ARTICLE 9 PAYMENTS AND COMPLETION

### 9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

## 9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in the ~~such~~ form as provided in Section H of the Project Manual, and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, unless objected to by the Architect/Engineer, shall be used as a basis for reviewing the Contractor's Applications for Payment.

## 9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect/Engineer an itemized preliminary draft of the Application for Payment with complete supporting data on the Board of Regents Certificate of Partial Payment form. Upon approval of the preliminary draft, the Contractor shall submit to the Architect/Engineer the Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, ~~if required~~, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect/Engineer may require, such as copies of requisitions from Subcontractors and materials suppliers, and reflecting retainage ~~if provided for elsewhere in the Contract Documents~~. Applications for Payments shall be made monthly beginning within 30 days after the notice to proceed.

~~9.3.1.1 Such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives but not yet included in Change Orders.~~

9.3.1.1 With the exception of Work which may be exempted from this requirement by a provision in the Special Conditions of this Project Manual, retainage shall be withheld from each monthly payment request, in an amount not to exceed 10% of the approved payment until 50% of construction payments are made. After the Work is considered to be 50% complete, retainage thereafter not to exceed 10% of the request, may or may not be withheld at the discretion of the Owner.

~~9.3.1.2 Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason. If securities are substituted in lieu of retainage as permitted by Section 255.052, F.S., the securities must be free of all encumbrances, and the Contractor must assign all its rights to the securities to the Owner, enabling the Owner to use those securities as it would retainage.~~

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials

and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

#### 9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect/Engineer will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect/Engineer has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and materials suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### 9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect/Engineer may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect/Engineer's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect/Engineer is unable to certify payment in

the amount of the Application, the Architect/Engineer will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect/Engineer cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make such representations to the Owner. The Architect/Engineer may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect/Engineer's opinion to protect the Owner from loss because of, but not limited to:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

## 9.6 PROGRESS PAYMENTS

9.6.1 After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and ~~shall~~ may so notify the Architect/Engineer.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. Payments shall be made within seven working days of receipt of payment from the Owner as required by Section 287.0585, F.S. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect/Engineer and Owner on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner nor Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

## 9.7 FAILURE OF PAYMENT

9.7.1 If the Architect/Engineer does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect/Engineer or awarded by ~~arbitration~~ litigation then the Contractor may, upon seven additional days' written notice to the Owner and Architect/Engineer, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be accomplished as provided in Article 7.

## 9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect/Engineer will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect/Engineer. The Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or



designated portion thereof is substantially complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect/Engineer, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents. Liquidated damages to the date of Substantial Completion shall be deducted by Construction Change Directive from the Contract Sum and from the Substantial Completion payment.

9.8.4 The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance.

9.8.5 The Contractor shall be responsible for collecting, identifying, indexing and collating the following materials from the Subcontractors, and will deliver four copies of the finished document to the Architect/Engineer to verify completeness. The Architect/Engineer will deliver three copies of the following to the Owner:

- .1 Complete equipment diagrams, operating instructions, maintenance manuals, parts lists, wiring diagrams, pneumatic and/or electrical control diagrams, test and balance reports, inspection reports, guarantees and warranties, as applicable, for each and every piece of fixed equipment furnished under this Contract to be supplied in a ring binder, hard-cover book, properly indexed for ready reference. Also, specific information regarding manufacturer's name and address, nearest distributor and service representative's names, addresses, office and home phone numbers, make and model numbers, operating design and characteristics, etc., will be required. All information submitted shall be current as of the time of submission.

9.8.6 Subsequent to the time of Substantial Completion and receipt of contract record sets and operations and maintenance books, but prior to the date of final acceptance, the Contractor and/or Subcontractor shall provide a competent and experienced person (or persons) thoroughly familiar with the Work for a reasonable period of time but not less than 40 hours to instruct the Owner's personnel in operation and maintenance of equipment and control systems. This instruction will include normal start-up, run, stop, and emergency operations, location and operation of all controls,

alarms and alarm systems, etc. The instruction will include tracing the system in the field and on the diagrams in the instruction booklets so that operating personnel will be thoroughly familiar with both the system and the data supplied.

## 9.9 PARTIAL OCCUPANCY OR USE

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.3.11 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## 9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 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 Architect/Engineer will promptly make such inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer's knowledge, information and belief, and on the basis of the Architect/Engineer's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Architect/Engineer's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Liquidated damages assessed subsequent to Substantial Completion shall be deducted by Construction Change Directive from the Contract Sum and from the final payment.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect/Engineer (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of ~~liens~~, claims, security interests, evidence that the required percentage of the Contract Sum has been expended with MBEs identified in the approved plan, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such ~~lien~~ claim. If such ~~lien~~ claim remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such ~~lien~~ claim, including all costs and reasonable attorneys' fees.

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect/Engineer so confirms, the Owner shall, upon application by the Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of claims by the Owner as provided in Subparagraph 4.3.5.

9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Subparagraph 4.3.5.

9.10.5 The Contractor's application for final payment shall be accompanied by a completed and notarized "Certificate of Contract Completion" as provided in Section H of the Project Manual. Any items required by the Contract Documents not previously submitted shall accompany the application for final payment.

ARTICLE 10  
PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 Unless asbestos abatement is specifically included as part of the Work elsewhere in the Contract Documents, then in the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect/Engineer in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect/Engineer on which arbitration legal recourse has not been demanded, or by arbitration legal recourse under Article 4.

10.1.3 The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB).

~~10.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.1.4.~~

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 The Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect/Engineer.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

### 10.3 EMERGENCIES

10.3.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened

damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

## ARTICLE 11

### INSURANCE AND BONDS

#### 11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in ~~the jurisdiction in which the Project is located~~ Florida such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance policies shall be issued and countersigned by representatives of such companies duly authorized for the State of Florida and shall be written on ISO standard forms or their equivalents. The Contractor shall provide the ISO Commercial General Liability policy for general liability coverages. All liability policies shall provide that the Owner is a named additional insured as to the operations of the Contractor under the Agreement and shall provide the Severability of Insureds Provision. The Owner shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the responsibility solely of the Contractor and/or Subcontractor providing such insurance. This insurance shall protect the Contractor from the following claims:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage including claims which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

- .7 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of \$250,000 per person, \$500,000 per occurrence or a minimum of \$500,000 combined single limit. Liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18 and coverage for the "XCU" exposure.

11.1.2.1 Worker's Compensation: The Contractor shall secure and maintain for the life of this Agreement, valid Worker's Compensation Insurance as required by Chapter 440, Florida Statutes. Copies of the insurance policy shall be filed with the Owner no later than 60 days after execution of the Owner-Contractor Agreement.

11.1.2.2 Automobile Liability: The Contractor shall secure and maintain, during the life of this Agreement, Automobile Liability insurance on all vehicles against bodily injury and property damage in at least the amounts of \$100,000 per person, \$300,000 per occurrence, and property damage in at least the amount of \$100,000; or combined single limit of \$300,000 for bodily injury and property damage.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. ~~Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.~~ The Contractor shall furnish one copy each of Certificates of Insurance for each copy of the Agreement which shall specifically set forth evidence of all insurance coverage required by the Contract Documents. The Certificate of Insurance shall be dated and show the name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. The Contractor shall furnish a copy of the insurance policy to the Owner within 60 days following execution of the Agreement.

## 11.2 OWNER'S LIABILITY INSURANCE

~~11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may~~

.7 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of \$250,000 per person, \$500,000 per occurrence or a minimum of \$500,000 combined single limit. ~~Liability specified in the Contract Documents or required by law, whichever coverage is greater.~~ Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18 and coverage for the "XCU" exposure.

11.1.2.1 Worker's Compensation: The Contractor shall secure and maintain for the life of this Agreement, valid Worker's Compensation Insurance as required by Chapter 440, Florida Statutes. Copies of the insurance policy shall be filed with the Owner no later than 60 days after execution of the Owner-Contractor Agreement.

11.1.2.2 Automobile Liability: The Contractor shall secure and maintain, during the life of this Agreement, Automobile Liability insurance on all vehicles against bodily injury and property damage in at least the amounts of \$100,000 per person, \$300,000 per occurrence, and property damage in at least the amount of \$100,000; or combined single limit of \$300,000 for bodily injury and property damage.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. ~~Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.~~ The Contractor shall furnish one copy each of Certificates of Insurance for each copy of the Agreement which shall specifically set forth evidence of all insurance coverage required by the Contract Documents. The Certificate of Insurance shall be dated and show the name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. The Contractor shall furnish a copy of the insurance policy to the Owner within 60 days following execution of the Agreement.

## 11.2 OWNER'S LIABILITY INSURANCE

~~11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may~~



~~arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.~~

### 11.3 PROPERTY INSURANCE

11.3.1 ~~Unless otherwise provided, the Owner~~ The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located Florida, property insurance, written on a Builder's Risk completed value form, in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis ~~without voluntary deductibles.~~ Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

11.3.1.1 ~~Property insurance shall be on a Special Causes of Loss form or its equivalent, an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover including reasonable compensation for Architect/Engineer's services and expenses required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.~~

11.3.1.2 ~~If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor, then the Owner shall bear all reasonable costs properly attributable thereto. Any special insurance requirements will be addressed in the Special Conditions.~~

11.3.1.3 ~~If the property insurance requires minimum provides deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of such deductibles. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.~~

~~11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.~~

~~11.3.2 Boiler and Machinery Insurance. The Owner Contractor shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, an appropriate installation floater which shall specifically cover such insured objects which are subject to the boiler and machinery hazards during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.~~

~~11.3.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.~~

~~11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.~~

~~11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 11.3.7 for damages caused by fire or other perils covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.~~

~~11.3.3 11.3.6 Before an exposure to loss may occur, the Owner Contractor shall file with the Contractor Owner a copy of each policy that includes insurance coverages required by this Paragraph 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor Owner.~~

~~11.3.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.3 or other property insurance applicable to the Work, except such rights~~

~~as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.~~

~~11.3.4 11.3.8~~ A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, ~~subject to requirements of any applicable mortgagee clause and of Subparagraph 11.3.10.~~ The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

~~11.3.5 11.3.9~~ If required in writing by a party in interest, ~~the~~ The Owner as fiduciary shall, upon occurrence of an insured loss, ~~give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.5. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.~~

~~11.3.10~~ The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.5. The Owner as fiduciary shall, in that case, make settlement with insurers in accordance with directions of such arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.3.11 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### 11.4 PERFORMANCE BOND AND PAYMENT BOND

~~11.4.1~~ The Owner shall have the right to require ~~t~~The Contractor ~~to~~ shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding require-

ments or specifically required in the Contract Documents on the date of execution of the Contract.

11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### 12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Architect/Engineer's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer's observation and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to its being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

### 12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct Work rejected by the Architect/Engineer or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby. The Contractor shall commence correction of the Work within seven days after the date of written notice from the Architect/Engineer.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the

Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect/Engineer's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### 12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13  
MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the law of the ~~place where the Project is located~~ State of Florida.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. ~~If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.~~ In case the Contractor, on written consent of the Owner, assigns all or any part of any money due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee to any money due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Architect/Engineer or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent

testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

13.5.2 If the Architect/Engineer, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Architect/Engineer will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 13.5.3.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architect/Engineer's services and expenses.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect/Engineer.

13.5.5 If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.5.7 Where tests are required by the technical specifications for materials, methods or equipment, the Contractor shall pay the cost of initial tests to prove qualities and determine conformance with specification requirements, e.g., mill tests on cement and steel; load testing of piling; sieve analysis and colorimetric tests on sand; strength tests for determining proportions of materials for concrete, moisture content and sound transmission tests of concrete blocks, etc.

13.5.8 If substitute materials or equipment are proposed by the Contractor, he shall pay the cost of all tests which may be necessary to satisfy the Architect/Engineer that specification requirements are met.

13.5.9 The Contractor shall pay for all testing costs, including but not limited to, power, fuel, and equipment costs which may be required for complete testing of all equipment and systems for proper operation such as plumbing, heating, ventilation, air conditioning, electrical, elevator, dumbwaiters and conveyors, etc.

## 13.6 INTEREST

13.6.1 ~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. Interest shall be paid in certain cases as provided by Section 215.422, F.S.~~

13.6.2 The Contractor shall be required to pay interest to Subcontractors and suppliers in certain cases where payments are not within the time constraints of Section 287.0585, F.S.

## 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

- .1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;
- .2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
- .3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

## 13.8 HARMONY

13.8.1 The Contractor shall exert every reasonable and diligent effort to assure that all labor employed by the Contractor and the Subcontractors for Work on the Project shall work in harmony with and be compatible with all other labor being used on the site of the Project, and representative of the Architect/Engineer and the Owner.

13.8.2 The Contractor shall include this provision in all contracts with Subcontractors, and the Contractor shall require that such a provision be



included in the contracts between the Subcontractors and the Sub-subcontractors; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or nonmembership in any labor union or labor organization, the right of any person to work as guaranteed by Article I, Section 6 of the Florida Constitution.

#### 13.9 CHANGE OF ADDRESS

13.9.1 If the address of the Contractor changes, the Contractor shall provide written notice to that effect to both the Owner and the Architect/Engineer.

13.10 If in the execution of the Work any items of historical significance or any valuable items or materials of any kind are discovered buried or hidden within the Work, such items or materials shall be the property of the Owner. The Contractor shall immediately upon discovery of such items or materials, and before removal thereof, acquaint the Architect/Engineer with such discovery and carry out by Change Order, at the expense of the Owner, the Architect/Engineer's orders as to the disposal of the items or materials.

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### 14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction;
- .2 an act of government, such as a declaration of national emergency, making material unavailable;
- .3 because the Architect/Engineer has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;
- .4 if repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less; or
- .5 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional day's written notice to the Owner and Architect/Engineer, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

~~14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.~~

#### 14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect/Engineer that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may; ~~subject to any prior rights of~~ direct the surety to:

- .1 take possession of the site and of all materials, equipment, tools; and construction equipment and machinery thereon owned by the Contractor;
- .2 accept assignments of subcontracts pursuant to Paragraph 5.4; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the Contractor's surety is directed to complete the Work, then all payments made after termination shall be made to the Surety until the Work is finished and the Contract Sum has been expended. The surety shall then be responsible for all of the obligations and duties of the Contractor under the Contract and shall be bound by the conditions of the Contract to fulfill all obligations of the Contract for the Contract Sum therein. The surety may not assign those obligations without the written consent of the Owner. The surety shall be responsible for the payment of all costs relating to the termination of the employment of the Contractor, if the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect/Engineer's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor surety or Owner, as the case may be, shall be certified by the Architect/Engineer, upon application, and this obligation for payment shall survive termination of the Contract employment of the Contractor.

#### 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An adjustment shall be made for increases in the cost of performance of the Contract including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

FLORIDA STATE UNIVERSITY  
STATE OF FLORIDA

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PAYMENT BOND  
(FOR LABOR AND MATERIALS)

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT AS PROVIDED BY SECTION 255.05, F.S.

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KNOW ALL MEN BY THESE PRESENTS: that (here insert contractor's full COMPANY NAME and ADDRESS)

as Principal, (Contractor) and, (here insert surety's full name and address)

as surety, (Surety), are held and firmly bound unto The Florida State University acting for and on behalf of The Florida State University Board of Trustees, a public body corporate, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of (here insert an amount equal to the contract sum),

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS:

Contractor has by written agreement dated \_\_\_\_\_, 200\_\_, entered into a contract with Owner for construction of \_\_\_\_\_ (*name of Project*), Florida State University, Project Number FS-\_\_\_\_\_, in accordance with Drawings and Specifications prepared by \_\_\_\_\_ (*name and address of A/E*), \_\_\_\_\_, which Owner-Contractor Agreement is by reference made a part hereof, and is hereinafter referred to as the Agreement.

THE CONDITIONS OF THIS BOND are such that:

1. If Contractor shall promptly make all payments owing when due to all persons who are defined in Section 713.01, Florida Statutes, whose claims derive directly or indirectly from the prosecution of the Work provided for in the Agreement, then this bond is void; otherwise, it remains in full force and effect.
2. Each said claimant shall have a right of action against the Contractor and Surety for the amount due the claimant. No such action shall subject the Owner to any cost, expense, loss or damage, and Contractor shall promptly pay Owner for the full measure of all cost, expense, loss, damage, and attorney's fees sustained by Owner as a result of any default by Contractor under the Agreement.
3. A claimant, except a laborer, who is not in privity with the Contractor and who has not yet received payment for his labor, materials, equipment or supplies shall, within forty five (45) days after beginning to furnish labor, materials, equipment or supplies for the prosecution of the Work, furnish the Contractor with a notice that the claimant intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for labor, materials, equipment or supplies shall, within ninety (90) days after completing performance of the labor or after completing delivery of the materials, equipment or supplies, deliver to the Contractor and to the Surety written notice of the performance of the labor or delivery of the materials, equipment or supplies and of the nonpayment. No action for the labor, materials, equipment or supplies may be instituted against the Contractor or the Surety after one year from the date performance of the labor is completed or delivery of the materials, equipment or supplies is completed.
4. An action against the Surety or the Contractor, or both, may be brought in the county in which the public building or public work is being constructed or repaired or in any other place authorized by the provisions of Chapter 47, Florida Statutes.
5. The amount of this bond shall be changed only to the extent that the Contract Sum is changed in accord with applicable provisions of the Contract For Construction.
6. Neither any change in or under the Contract Documents, nor any compliance or noncompliance with any formalities provided in the Agreement or the change shall relieve the Surety of its obligations under this Bond.

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

\*\*\*\*\* CONTRACTOR \*\*\*\*\*

As Witnessed By: \_\_\_\_\_ Company Name \_\_\_\_\_ (Seal)

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
name & title

\*\*\*\*\* SURETY \*\*\*\*\*

As Witnessed By: \_\_\_\_\_ Surety name \_\_\_\_\_ (Seal)

\_\_\_\_\_  
By: \_\_\_\_\_  
Resident Agent as Attorney-in-Fact  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Typed Name and Address

(Power of Attorney attached hereto)

FLORIDA STATE UNIVERSITY  
STATE OF FLORIDA

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PERFORMANCE BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PAYMENT BOND (FOR LABOR & MATERIALS) IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT AS PROVIDED BY SECTION 255.05, F.S.

---

KNOW ALL MEN BY THESE PRESENTS: that (here insert contractor's full COMPANY NAME and ADDRESS)

as Principal, (Contractor) and (here insert surety's full name and address)

as surety, (Surety), are held and firmly bound unto The Florida State University, acting for an on behalf of the Florida State University Board of Trustees, a public body corporate, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of (here insert an amount equal to the contract sum),

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS,

Contractor has by written agreement dated \_\_\_\_\_, 200\_\_, entered into a contract with Owner for construction of \_\_\_\_\_ (name of Project) \_\_\_\_\_, Florida State University, Project Number FS-\_\_\_\_\_, in accordance with Drawings and Specifications prepared by \_\_\_\_\_ (name and address of A/E) \_\_\_\_\_, which Owner-Contractor Agreement is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Agreement, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor is in default under the Agreement, and the Owner has performed its obligations thereunder, the Surety shall promptly remedy the default, in accordance with Section 255.05, Florida Statutes, or shall promptly obtain a bid or bids for completing the Agreement in accordance with its terms and conditions, and arrange for a contract between such bidder and the Surety, and pay as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) the cost of completion less the balance of the Contract Sum; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Sum", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Agreement and any amendments thereto, less the amount properly paid by Owner to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrator or successors of the Owner.



SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

\*\*\*\*\* CONTRACTOR \*\*\*\*\*

As Witnessed By: \_\_\_\_\_ company name (Seal)

\_\_\_\_\_ By: \_\_\_\_\_  
Typed Name, Title

\*\*\*\*\* SURETY \*\*\*\*\*

As Witnessed By: \_\_\_\_\_ Surety name (Seal)

\_\_\_\_\_ By: \_\_\_\_\_  
Resident Agent as Attorney-in-Fact

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Typed Name and Address

(Power of Attorney attached hereto)

FLORIDA STATE UNIVERSITY  
CERTIFICATE OF SUBSTANTIAL COMPLETION

Project Name & No.: \_\_\_\_\_ Date: \_\_\_\_\_

The Work, or portion of the Work identified on an attachment hereto, performed under the Contract dated \_\_\_\_\_ between the Florida State University Board of Trustees, a public body corporate of the State of Florida, OWNER, and \_\_\_\_\_, Contractor, for the construction of \_\_\_\_\_, was inspected and found to be substantially completed as of \_\_\_\_\_.

The Date of Substantial Completion of the Work or designated portion thereof is the date certified by the Architect/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it was intended.

A list of items to be completed or corrected is appended hereto. This list may not be exhaustive and the failure to include an item on it does not alter the responsibility of the Contractor to complete all the Work in accordance with the Contract Documents, including authorized changes thereto.

The Contractor shall complete or correct the Work on the list of items appended hereto within \_\_\_\_\_ calendar days from the Date of Substantial Completion.

Owner assumed or will assume full possession and responsibility for security of the facility above described on \_\_\_\_\_.

The responsibility of the Contractor to provide utilities shall cease on the date the Architect/Engineer determines the Work to have been substantially completed in accordance with the requirements of the Contract Documents. On the date so established by the Architect/Engineer as the date of Substantial Completion of the project, or beneficial occupancy, whichever comes first, the one year warranty shall commence running. All insurance coverages shall continue in force as provided by the Contract Documents.

ARCHITECT/ENGINEER

CONTRACTOR

\_\_\_\_\_  
(type name of firm)

\_\_\_\_\_  
(type name of firm)

By: \_\_\_\_\_  
(Authorized Representative)

By: \_\_\_\_\_  
(Authorized Representative)

\*\*\*\*\* OWNER \*\*\*\*\*

By: \_\_\_\_\_  
Associate Vice President for Facilities

By: \_\_\_\_\_  
Eric J. Barron  
President

**FLORIDA STATE UNIVERSITY**

**CERTIFICATE OF CONTRACT COMPLETION**

**PROJECT:**

**CONTRACTOR:**

**CONTRACT DATE:**

**CONTRACT AMOUNT:**

**COMPLETION DATE:**

**CONTRACTOR'S AFFIDAVIT**

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

**CONTRACTOR:**

**TITLE:**

**DATE:**

**STATE OF:**

**COUNTY OF:**

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_, known (or made known) to me to be the (Owner) (Partner) (Corporate Officer-Title), Contractor(s), who, being by me duly sworn, subscribed to the forgoing affidavit in my presence.

(Notary Public)

(Type Name):

My Commission Expires:

**FLORIDA STATE UNIVERSITY  
CERTIFICATE OF CONTRACT COMPLETION**

**PROJECT:**

**CONTRACTOR:**

**CONTRACT DATE:**

**CONTRACT AMOUNT:**

**COMPLETION DATE:**

**CERTIFICATE OF ARCHITECT/ENGINEER**

**I CERTIFY:** That, to the best of my knowledge and belief, the Work under the Owner-Contractor Agreement by and between the Florida State University, State of Florida and \_\_\_\_\_, dated \_\_\_\_\_, has been satisfactorily completed under the terms of the Contract; that the Work is recommended for occupancy by the Owner; and that the Contractor has submitted a sworn affidavit as evidence that the Contractor has paid all labor, materials and other charges against the Project in accordance with the terms of the Contract.

**A/E Firm Name:**

**By:** \_\_\_\_\_ **Date:**

**CERTIFICATE OF ACCEPTANCE BY UNIVERSITY**

**THIS IS TO CERTIFY:** That, based upon the statements made in the above affidavit and certificate, the Work is hereby accepted as completed for occupancy, operation and maintenance.

**By:**

**Title:**  
(Authorized Representative)

**Date:**

H

H

ASSIGNMENT OF ANTITRUST CLAIMS

Upon receiving award of Contract, the Contractor agrees to execute the following Assignment:

For and in recognition of good and valuable consideration, receipt of which is hereby acknowledged, \_\_\_\_\_  
(Company Name)

acting herein by and through \_\_\_\_\_  
(Authorized Individual's Name)

its \_\_\_\_\_  
(Title of Authorized Individual whose signature appears below)

and duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of Florida all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by the State of Florida pursuant to \_\_\_\_\_

\_\_\_\_\_  
(State Contract Name, Number, Etc.)

PLACE SEAL HERE

By: \_\_\_\_\_

As Witnessed By:

Date: \_\_\_\_\_

\_\_\_\_\_  
(Company Name)

CERTIFICATE OF NON-SEGREGATED FACILITIES

We, \_\_\_\_\_ (Company) certify that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services at any location, under our control, where segregated facilities are maintained. We understand and agree that breach of this certification is a violation of Equal Opportunity clause required by Executive Order 11246, amended.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

We further agree that (except where we have obtained identical certifications from proposed Subcontractors for specific time periods) we will obtain identical certifications from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that we will retain such certification in our files; and that we will forward the following notice to such proposed Subcontractors (except where the proposed Subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES. A certification of Non-segregated facilities as required by the 9 May 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, 19 May 1967), must be submitted from the provisions either for each subcontract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

NOTE: Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.

\_\_\_\_\_  
(NAME OF COMPANY)

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**FLORIDA STATE UNIVERSITY CONSTRUCTION CONTRACT CHANGE ORDER**

Change No.:  
 Project :  
 Architect/Engineer:  
 To (Contractor):  
 Your proposal dated \_\_\_\_\_

Date:  
 Project No.: FS-  
 A/E Job No.:

\_\_\_\_\_ has been accepted for making the following changes:

DESCRIPTION OF CHANGE				DECREASE	INCREASE
NOTICE TO PROCEED DATE:		ORIGINAL CONTRACT SUM:			
Contract Time	Days	Complete*	Subtotal		
Present Contract			New (Add) (Deduct)		
This Change			Present Contract Sum		
New Contract Time			New Contract Sum		

\* SUBSTANTIAL COMPLETION DATE

This Change Order is an amendment to the Owner-Contractor Agreement, and all contract provisions shall apply unless specifically exempted. The amount and time change designated are the maximum agreed to by both the Owner and the Contractor for this change. In consideration of the foregoing adjustments in Contract Time and Contract Sum, the Contractor hereby releases Owner from all Claims, demands, or causes of action arising out of the transactions, events and occurrences giving rise to this Change Order. This written Change Order is the entire agreement between Owner and Contractor with respect to this Change Order. No other agreement or modification shall apply to this contract amendment unless expressly provided herein.

**AGREED**

\_\_\_\_\_  
 Contractor DATE

\_\_\_\_\_  
 Architect/Engineer DATE

\_\_\_\_\_  
 President or Designee DATE

FLORIDA STATE UNIVERSITY  
CONSTRUCTION CONTRACT CHANGE ORDER JUSTIFICATION FORM

Architect/Engineer shall supply  
all of the following information:

Change No: \_\_\_\_\_

State Project No: \_\_\_\_\_

Project is \_\_\_\_\_% complete  
as of \_\_\_\_\_  
(Date)

Project is \_\_\_\_\_% ahead of schedule.

Project is \_\_\_\_\_% behind schedule.

NECESSITY AND JUSTIFICATION FOR CHANGE:

Change initiated by: Owner \_\_\_\_\_ A/E: \_\_\_\_\_ Contractor: \_\_\_\_\_

University has confirmed funds for change are available: Yes \_\_\_\_\_ No \_\_\_\_\_.

Give the following information for each item:

**NECESSITY** - Why is this Change Order necessary?

**RESPONSIBILITY** - Who has necessitated this Change Order?

**ORIGINAL CONTRACT** - Why was this condition not considered in the original Contract Documents?

**PAYMENT** - Who is going to pay for the change if the liability rests with party/parties other than the Owner?

**EXPLANATION** - Supply a detailed explanation of each item to be performed in this Change Order. This must be a complete statement of labor and material.

**JUSTIFICATION** - Supply a complete justification for this work in a clear and concise summary statement.

**EFFECT ON PROJECT** - Operation, maintenance, space and size.

Architect/Engineer hereby certifies that no costs are included for corrective work made necessary by error or fault attributable to Architect/Engineer.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_



FLORIDA STATE UNIVERSITY CONSTRUCTION CHANGE DIRECTIVE

Change No: \_\_\_\_\_ Date: \_\_\_\_\_  
 Project: \_\_\_\_\_ Project No: \_\_\_\_\_  
 Architect/Engineer: \_\_\_\_\_ A/E Job No: \_\_\_\_\_  
 To (Contractor): \_\_\_\_\_

You are hereby directed to make the following change(s) in this Contract:

DESCRIPTION OF PROPOSED CHANGE				DECREASE	INCREASE
(Describe the basis of adjustment to Contract Sum, and include Change Order Justification Form. Attach additional sheets if required.)					
NOTICE TO PROCEED DATE: ORIGINAL CONTRACT SUM:					
Contract Time	Days	Complete*	Subtotal		
Present Contract			New (Add) (Deduct)		
This Change			Present Contract Sum		
New Contract Time			New Contract Sum		

\*Substantial Completion Date

When signed by the Owner and Architect/Engineer and received by the Contractor, this document becomes effective IMMEDIATELY as a Construction Change Directive (CCD), and the Contractor shall proceed with the change(s) described above.

AGREED

\_\_\_\_\_  
 Architect/Engineer                      Date

\_\_\_\_\_  
 Project Manager                      Date

\_\_\_\_\_  
 President or Designee                      Date

\* Signature by the Contractor indicates the Contractor's agreement with the proposed adjustments in Contract Sum and Contract Time set forth in this Construction Change Directive, and this Construction Change Directive becomes a change order to the Owner-Contractor Agreement.

\_\_\_\_\_  
 CONTRACTOR                      DATE



FLORIDA STATE UNIVERSITY  
CERTIFICATE OF PARTIAL PAYMENT

Request No: \_\_\_\_\_ A/E Job No: \_\_\_\_\_ BOR Project No: \_\_\_\_\_

Project: \_\_\_\_\_

Contractor: \_\_\_\_\_

Contract Time (calendar days): \_\_\_\_\_ No. of Days Elapsed to Date: \_\_\_\_\_

Change Orders approved to Date  
Net Amount of Change Orders

ADDITIONS	DEDUCTIONS
\$ _____	\$ _____
_____	_____

ORIGINAL CONTRACT SUM	\$ _____
ADJUSTED CONTRACT SUM	_____
BALANCE TO FINISH	_____
COMPLETED TO DATE	_____
MATERIALS STORED	_____
TOTAL COMPLETED AND STORED	_____
LESS RETAINAGE ( %)	_____
TOTAL	\$ _____
LESS PREVIOUS PAYMENTS	_____
AMOUNT THIS CERTIFICATE	\$ _____

CERTIFICATION BY CONTRACTOR: According to the best of my knowledge and belief, I certify that all items and amounts shown on the face of this Application are correct, that all Work has been performed and material supplied in full accordance with the terms and conditions of the Contract, and that all just and lawful bills against me and my Subcontractors for labor and equipment employed in the performance of this Contract have been paid in full in accordance with the terms and conditions.

Date: \_\_\_\_\_ Contractor: \_\_\_\_\_

STATE OF FLORIDA, COUNTY OF \_\_\_\_\_  
Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.  
Notary Public: \_\_\_\_\_ Commissions Expires: \_\_\_\_\_

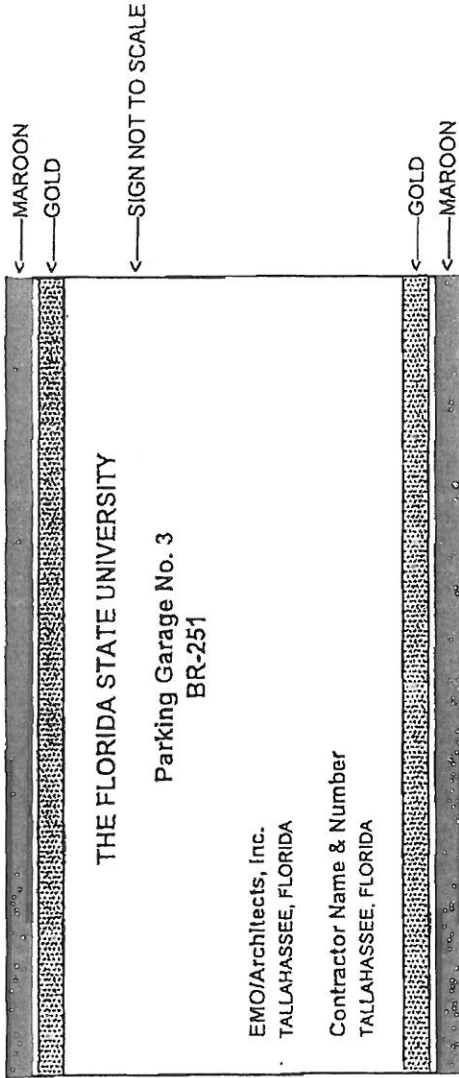
CERTIFICATION OF ARCHITECT/ENGINEER: I certify that I have checked and verified this Progress Payment Application; that to the best of my knowledge and belief the above application is a true statement of the value of the Work performed and the materials suitably stored on the site; that all Work and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

Date: \_\_\_\_\_ Architect/Engineer \_\_\_\_\_

REVIEWED AND RECOMMEND FOR PAYMENT BY  
OWNER'S REPRESENTATIVE

Date: \_\_\_\_\_ Project Manager \_\_\_\_\_

# PROJECT SIGN



SIZE: 8FT. WIDE X 4FT. HIGH  
PAINT: LETTERING & STRIPES →  
 BACKGROUND →

LETTERING: 1 SHOT LETTERING ENAMEL  
 SHERWIN-WILLIAMS REM-LUSTRAL  
 INDUSTRIAL ENAMEL GLOSS  
 WHITE OR EQUIVALENT

LETTERING: TITLE - FUTURA EXTRA BOLD  
 PRIMARY COPY - FUTURA BOLD  
 SECONDARY COPY - FUTURA MEDIUM  
 (BALL POINT)

COLORS: MAROON - 108-6  
 IMITATION GOLD - 191-6  
 BLACK - 199-6

LOCATION: CONSULT WITH PROJECT MANAGER

NOTE: ALL PAINTS SHERWIN WILLIAMS

MATERIAL: 1 SHEET 4FT. X. 8FT. X. 3/4" DURAPLY  
 2 EA. 4IN. X. 6IN. X. 12FT. TREATED POSTS

INSTALL: BEFORE GROUNDBREAKING  
REMOVE: AT SUBSTANTIAL COMPLETION

SPECIAL CONDITIONS OF THE CONTRACT  
FOR CONSTRUCTION

(Note to Architect/Engineer - This section is established for the inclusion of non-typical, non-technical items which, in the opinion of the Architect/Engineer, will require written clarification or instruction in connection with a specific project. With the exception of Article 1, Minority Business Enterprise Requirements, which is required for all projects, if one or more of the following items are totally, partially or not at all applicable to a particular project, it/they may be included, modified or deleted by the Architect/Engineer.)

TABLE OF ARTICLES

1. Minority Business Enterprise Requirements
2. Special Requirements for Threshold Buildings
3. Projects of Less than \$100,000.00
4. Special Prequalification Requirements
5. Construction Facilities
6. Telephone
7. Water
8. Electricity
9. Project Sign
10. Pre-construction conference
11. Federally Funded Projects
12. Project Drawings - Copies Furnished to Contractors
13. Building Plaque

ARTICLE 1

MINORITY BUSINESS ENTERPRISE REQUIREMENTS

1.1 PRE-AWARD REQUIREMENTS

1.1.1 The State University System has established a Construction Minority Business Enterprise Program in compliance with the Florida Small and Minority Business Assistance Act, Chapter 287, Florida Statutes. The expenditure of at least 15 percent of the Base Bid with certified Minority Business Enterprises is a requirement of this Contract, unless Good Faith Effort, as identified in Paragraph 1.7 can be demonstrated by the Bidder. MBEs not certified with the Department of General Services will be deleted from the calculation of the required participation of MBEs, and evidence of Good Faith Effort in lieu thereof will be required as identified in Subparagraph 1.1.2 and Paragraph 1.7 of these Special Conditions. MBE participation in the alternates is desired as a goal but is not a prerequisite to the award.

1.1.2 Evidence of Good Faith Efforts will be required as specified by the Owner within two working days after the opening of the bids. Incomplete evidence which does not fully support each of the eight requirements of Paragraph 1.7 shall constitute cause for determining the bid to be non-responsive, except that the Owner may, at its option but not as a duty, seek supplementary evidence not submitted by the Bidder.

## 1.2 INFORMATION REQUIRED BY OWNER

1.2.1 Within 30 days from receipt of executed Contract, the Contractor shall submit copies of executed subcontracts or letters of intent between the MBE and the Contractor to the University Planning Office. The letter of intent shall identify: 1) the project title and location, 2) the contract amount, 3) the trade or service to be performed, and 4) the approximate schedule of the service provided.

## 1.3 MONITORING REQUIREMENTS

1.3.1 Monitoring of the MBE program will be accomplished at the time of the final payment to the Contractor. The Contractor's final pay request shall identify the amount of the payments made to each MBE and shall contain releases of lien from each of them. The processing of this final pay request shall be subject to the requirement of Paragraph 1.4. The Contractor shall not interpret the absence of interim monitoring as indifference by the Owner or intent to waive the requirements of Paragraph 1.4.

## 1.4 PENALTY FOR NON-COMPLIANCE

1.4.1 Participation by MBEs of less than the required percentage of the original Base Bid shall constitute a breach of the Contract. However, the Owner and the Contractor recognize that damages to the Owner for that breach are difficult to calculate. Therefore, it is agreed that the Owner may reduce the payment to the Contractor in an amount equal to the difference between the sum which represents the required percentage of the original Base Bid and the amount actually expended in payment to certified MBEs. The Owner, in making the decision whether to so reduce the payment, shall use the criteria found in Paragraph 287.094.5(3)(b), Florida Statutes.

## 1.5 FORMAT

1.5.1 The Minority Business Enterprise Plan consists of the information required on the List of Subcontractors Form submitted with the Bid Proposal. Demonstration of Good Faith Efforts shall be as identified in Paragraph 1.7.

## 1.6 CERTIFICATION REQUIREMENTS

1.6.1 Certification. Minority Business Enterprises participating in the State University System Minority Construction Program must have been certified as a Minority Business Enterprise by the Florida Department of General Services at the time of bid submittal. Certification identifies and limits the Specialty Area of business the Minority Business Enterprise can perform and still qualify as a certified MBE. Therefore, the trade service listed on the Proposal for each of the Minority Business Enterprises must be within the scope of the Specialty Area. Trade services listed that are not within the Specialty Area for which the Minority Business Enterprise is certified may cause the Bidder to be declared non-responsive to the percentage requirement, thus requiring the Bidder to submit evidence of Good Faith Effort to achieve the required Minority Business Enterprise participation.

1.7 GOOD FAITH EFFORTS: The Florida Statutes provide factors to be considered for determination of a Bidder's Good Faith Efforts. The Statutes, the implementation required by the State University System, and the documentation in support of the efforts are identified under the following Subparagraphs.

1.7.1 Statute 287.0945(3)(b)1:

.1 STATUTORY REQUIREMENTS: Whether the contractor attended any pre-solicitation or prebid meetings that were scheduled by the agency to inform minority business enterprises of contracting and subcontracting opportunities;

.2 IMPLEMENTATION REQUIRED BY THE STATE UNIVERSITY SYSTEM: Attendance by the Bidder or a representative will be required.

.3 DOCUMENTATION REQUIRED: Signature on the meeting roster maintained by the University or by the Architect/Engineer.

1.7.2 Statute 287.0945(3)(b)2:

.1 STATUTORY REQUIREMENTS: Whether the contractor advertised in general circulation, trade association, and/or minority-focus media concerning the subcontracting opportunities;

.2 IMPLEMENTATION REQUIRED BY THE STATE UNIVERSITY SYSTEM: Advertising through minority focus media, through a trade association, or one local newspaper with a minimum circulation of 25,000. In the event the project is located where such circulation is not available, then advertising in a vicinity newspaper with a minimum circulation of 25,000. Such advertisements must run or be published on a date at least seven days prior to the bid opening.

.3 DOCUMENTATION REQUIRED: Copy of the ad run by the media and the date thereof.

1.7.3 Statute 287.0945(3)(b)3

.1 STATUTORY REQUIREMENTS: Whether the contractor provided written notice to a reasonable number of specific minority business enterprises that their interest in the contract was being solicited in sufficient time to allow the minority business enterprises to participate effectively;

.2 IMPLEMENTATION REQUIRED BY THE STATE UNIVERSITY SYSTEM: The Bidder shall solicit specific trades for MBE participation, matching the capabilities of solicited MBEs with the subcontract type, consistent with the requirements of 1.7.5.1.

.3 DOCUMENTATION REQUIRED: Copy of letters required as evidence.

1.7.4 Statute 287.0945(3)(b)4

.1 STATUTORY REQUIREMENTS: Whether the contractor followed up initial solicitations of interest by contacting minority business enterprises or minority persons to determine with certainty whether the

minority business enterprises or minority persons were interested;

.2 IMPLEMENTATION REQUIRED BY THE STATE UNIVERSITY SYSTEM: The Bidder shall make no less than one written follow-up contact per initial contact. In the event a positive response is obtained, the Bidder shall request, in writing, a meeting between MBE and the Bidder's staff.

.3 DOCUMENTATION REQUIRED: Copy of letters, telegrams and/or meeting notes required as evidence.

1.7.5 Statute 287.0945(3)(b)5

.1 STATUTORY REQUIREMENTS: Whether the contractor selected portions of the work to be performed by minority business enterprises in order to increase the likelihood of meeting the minority business enterprise goals, including, where appropriate, breaking down contracts into economically feasible units to facilitate minority business enterprise participation;

.2 IMPLEMENTATION REQUIRED BY THE STATE UNIVERSITY SYSTEM: A subdivision of a "system" is not anticipated. However, "sitework" might be broken into separate viable items -- paving, earth moving, sidewalks, sodding, etc. Or, irrigation system might be separate from other plumbing, etc.

.3 DOCUMENTATION REQUIRED: The same evidence as required for Sub-subparagraph 1.7.3.3.

1.7.6 Statute 287.0945(3)(b)6:

.1 STATUTORY REQUIREMENTS: Whether the Contractor provided interested minority business enterprises with adequate information about the plans, specifications, and requirements of the contract or the availability of jobs.

.2 IMPLEMENTATION REQUIRED BY STATE UNIVERSITY SYSTEM: The Bidder will be considered to be in compliance with this requirement if the contacts in Subparagraphs 1.7.2 and 1.7.3 indicate access to plan review at the Bidder's place of business or other designated location.

.3 DOCUMENTATION REQUIRED: Copies of letters from Subparagraphs 1.7.2 and 1.7.3 above indicating access to plans at the Bidder's place of business or other designated location.

1.7.7 287.0945(3)(b)7:

.1 STATUTORY REQUIREMENTS: Whether the Contractor negotiated in good faith with interested minority business enterprises or minority persons, not rejecting minority business enterprises or minority persons as unqualified without sound reasons based on a thorough investigation of their capabilities.

.2 IMPLEMENTATION REQUIRED BY STATE UNIVERSITY SYSTEM: If proposals received from MBEs pursuant to 1.7.3 above were no greater than the lowest and best bona fide trade contract bid received by the Bidder, why were the MBE prices not used in preparing the bid?



.3 DOCUMENTATION REQUIRED: Copies of documents reflecting why Minority Business Enterprise prices were not used in preparing the bid.

1.7.8 Statute 287.0945(3)(b)8:

.1 STATUTORY REQUIREMENTS: Whether the contractor effectively used the services of available minority community organizations; minority contractors' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of minority business enterprises or minority persons.

.2 IMPLEMENTATION REQUIRED BY STATE UNIVERSITY SYSTEM: Did the Bidder send copies of the information provided under Subparagraphs 1.7.2 and 1.7.3 to the organizations, groups, and offices listed in 1.7.8.1.

.3 DOCUMENTATION REQUIRED: Copies of information sent to such organizations, groups, and offices, at least one week prior to bid date required as evidence.

## ARTICLE 2

### SPECIAL REQUIREMENTS FOR THRESHOLD BUILDINGS

#### 2.1 STRUCTURAL INSPECTION PLAN

Chapter 553, Florida Statutes, defines a "Threshold Building" as "any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content greater than 500 persons." For such buildings the Contractor shall request from the Owner a structural inspection plan prepared by the Architect/Engineer prior to proceeding with the requirements of a Notice to Proceed. Usually this structural inspection plan will accompany the Notice to Proceed from the Owner. In the State University System, the Notice to Proceed equates with the building permit. The structural inspection plan shall provide specific inspection procedures and schedules to assure compliance with the permitted plans.

#### 2.2 SHORING AND RESHORING AND INSPECTION

For a threshold building the Contractor shall provide or shall require his Subcontractor to provide, plans prepared by an engineer licensed to practice in Florida and retained by the Contractor or his Subcontractor for the preparation of plans for the shoring and the reshoring of the Work. These plans shall be filed with the Owner prior to the shoring or reshoring of the Work. Section 553.79(8), Florida Statutes, identifies the Contractor's responsibilities as: "The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management, and control of the construction activities on the project for which the building permit was issued." The Contractor shall notify the special inspector when the shoring is ready for inspection for conformance with the shoring and reshoring plans submitted to the Owner; however, such inspection shall not relieve the Contractor from responsibilities under Section 553.79(8), Florida Statutes.

ARTICLE 3

PROJECTS OF LESS THAN \$100,000

(This project manual may be used for projects of less than \$100,000.00. However, a project manual specially applicable to such projects is being prepared by the Owner. Until such time as that special project manual is available, the following provisions are applicable to all contracts awarded for less than \$100,000.00.)

3.1 WORK EXEMPT FROM BOND REQUIREMENTS

3.1.1 As provided in Section 255.05, Florida Statutes, a Contractor providing services for a contract of less than \$100,000 is not required to provide a performance and payment bond. In such cases, the procedures as set forth in Paragraph 3.2 below shall be followed.

3.2 PROCEDURES FOR WORK WITHOUT BONDS

3.2.1 Prior to certification of final completion, the Owner will not authorize or make payment to the Contractor in excess of ninety percent (90%) of the amount due on the Contract. In case of default by the Contractor, the laborers, materialmen, and Subcontractors, as defined in Section 713.01, F.S., making claims for unpaid bills, will be paid from the ten percent (10%) retainage on a pro rata basis.

3.2.2 Final payment of retainage will not be made until:

- .1 The Work has been inspected by the Architect/Engineer or other person representing the Owner, and the Certificate of Final Completion has been signed by the Owner, and
- .2 The Contractor has supplied the Owner with signed and dated statements from all laborers, materialmen, and Subcontractors as defined in Section 713.01, F.S. and identified under Subparagraph 3.2.4 hereinafter, that they have no claims against the Contractor for Work under the Contract. Said statements shall identify the project by name and project number.

3.2.3 The Contractor shall provide evidence in the form of a certified copy, that the Contractor has placed a notice in a local newspaper and has posted such notice in a conspicuous place on the Project site. The notice shall be in the following form:

"Notice is hereby made to all those concerned and affected that  
\_\_\_\_\_ (CONTRACTOR'S NAME) \_\_\_\_\_ is performing  
\_\_\_\_\_ (PROJECT NAME) \_\_\_\_\_  
\_\_\_\_\_, at \_\_\_\_\_ (LOCATION) \_\_\_\_\_. All parties  
furnishing labor and/or materials to said Project are to provide notice  
of such in writing by certified mail to the Contractor and to \_\_\_\_\_  
\_\_\_\_\_ (insert the name of the university official executing  
the Purchase Order or Contract in behalf of the university) within  
twenty days of first providing such labor and/or materials."

3.2.4 The Contractor shall provide a certified list of all Subcontractors, laborers, and material suppliers to the Owner within thirty days of receipt of the notice to proceed with the Work. This list shall be updated thereafter each month with a certified statement that the list and its updates include the names and addresses of all of those Subcontractors, laborers, and material suppliers furnishing labor and/or material for the Project.

3.2.5 Upon receipt of each payment, the Contractor shall pay each Subcontractor and supplier in accordance with Section 287.0585, Florida Statutes.

3.2.6 The Contractor shall provide a written statement to the Owner which indicates how each payment requested will be distributed to Subcontractors and suppliers. This pay request breakdown shall define the disbursement intended for all of the funds requested.

3.2.7 The Contractor shall provide a written statement with all but the first pay request from each of the Subcontractors and suppliers indicated in 3.2.6 above that they have in fact received payment. In the event any payment is not made as indicated on the pay request, the Contractor shall furnish an explanation justifying such deviation. If the justification is acceptable the previous payment will be confirmed; if not acceptable the Contractor shall credit any unapproved amount to the Owner on the next pay request.

#### ARTICLE 4

##### SPECIAL PREQUALIFICATION REQUIREMENTS

(Note to Architect/Engineer: For some highly specialized projects, prequalification requirements in addition to those described under B-2 of the Instructions to Bidders may be specified here. The Architect/Engineer shall specify under this paragraph such additional information to be furnished for the prequalification for these specialized projects.)

#### ARTICLE 5

##### CONSTRUCTION FACILITIES

###### 5.1 FIELD OFFICES

5.1.1 Architect/Engineer Field Offices: The Contractor shall provide and maintain a watertight office at the Project site for the exclusive use of the Architect/Engineer and the Architect/Engineer's representatives. It shall be a one-room office, at least 12' x 12' in size, with at least one window in each exterior wall and an independent outside entrance door fitted with hardware and lock. The room shall be equipped with artificial light, a bench with one drawer, a blueprint rack, a heater and a window air conditioner. This office and equipment shall become the property of the Contractor upon completion of the Work. A trailer satisfying the above requirements will be acceptable.

5.1.2 Contractor's Field Office: Trailers may be used for field offices. The Contractor shall have a telephone installed in the Contractor's office and shall permit business use of it to Subcontractors and

other trades who shall reimburse the Contractor for such use if so directed by the Contractor. Trades or Subcontractors wishing to install their own telephone service may do so at their own expense. The Architect/Engineer shall be informed of the job telephone numbers and a directory of all trades shall be installed adjacent to the phone in the Contractor's field office.

## 5.2 STORAGE AND WORK AREAS

At the start of the operations the Contractor shall make arrangements with the Architect/Engineer's Project Representative and the Owner's authorized representative for the assignment of storage and work areas. During construction the Contractor shall maintain the areas in a neat condition.

## 5.3 SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of the Contractor's and Architect/Engineer's employees as may be necessary to comply with regulations of the State Board of Health.

## ARTICLE 6

### TELEPHONE

6.1 The Contractor shall be responsible for the installation of a telephone in the Architect/Engineer's office and it shall remain until the full completion of the Work. Charges for long distance calls shall be paid for by the persons making the calls. All other charges in connection with the telephone shall be paid for by the Contractor.

## ARTICLE 7

### WATER

7.1 Water necessary to carry out the Work and for testing its plumbing and mechanical systems shall be furnished by the Contractor. He shall make all connections, install a meter, take out and pay for all permits necessary, do all piping and clear away all evidence of same after the Work is completed.

## ARTICLE 8

### ELECTRICITY

8.1 All electricity for light and power necessary to carry out the Work and to test its electrical and mechanical systems shall be provided and paid for by the Contractor.

## 8.2 TEMPORARY WIRING

Wiring shall meet all safety requirements of the National Electric Code and local requirements. In addition, all wire shall be so sized that it is not overloaded according to the National Electric Code and O.S.H.A. Standards, and any wire used shall be fused to adequately protect that wire according

to the most restrictive applicable Code. The Contractor shall have an adequate number of outlets and each outlet shall be properly and clearly labeled with the maximum voltage and fuse protection. Where temporary lighting is used, outlets shall consist of weatherproof sockets insulated and provided with a locking type wire guard. All devices shall be provided with ground-fault protection.

#### ARTICLE 9

##### PROJECT SIGN

9.1 A sign shall be erected at the site by the Contractor and shall be 3/4" exterior grade plywood, mounted on 4' x 4' wood posts (p.t.), located in a prominent location approved by the Architect/Engineer and Owner. The sign shall conform to the size, colors and design as illustrated in Section H of the Project Manual.

(Note to the Architect/Engineer: If there are federal monies involved in this Project, determine the requirements for a federal sign and include an example in these Special Conditions.)

#### ARTICLE 10

##### PRE-CONSTRUCTION CONFERENCE

10.1 Before beginning Work at the site the Contractor shall attend a preconstruction conference and be accompanied by the superintendent employed for the Work. This conference will be scheduled by the Owner's representative who will arrange for the Architect/Engineer, the District Engineer (if the project is being assisted by federal funds), and other interested parties to be present. At this time all parties concerned will discuss the Work and prepare a program of procedure in keeping with requirements of the Contract Documents. The superintendent shall thereafter make every effort to expeditiously coordinate all segments of the Work, including the required reporting procedure, to obtain the end result within the full purpose and intent of the plans and specifications for the Work.

#### ARTICLE 11

##### FEDERALLY FUNDED PROJECTS

(Note to Architect/Engineer: Article 11 of the Special Conditions is required in connection with projects whose funding includes any of several types of federal assistance monies. It will be incumbent upon the Architect/Engineer to investigate and make a determination regarding the inclusion of this item for a particular project. When federal funds are included, the Architect/Engineer shall develop Supplementary General Conditions which contain the information provided in AIA Document A201/SC, dated 1977.)

ARTICLE 12

PROJECT DRAWINGS - COPIES FURNISHED TO CONTRACTORS

12.1 The Architect/Engineer will provide the Contractor with (Number shall be established by Architect/Engineer) \_\_\_\_\_ sets of drawings and \_\_\_\_\_ sets of specifications upon Contract award. If additional sets are required by the Contractor, they will be furnished upon request for the cost of printing and handling.

ARTICLE 13

BUILDING PLAQUE

13.1 If a building plaque is to be provided, the Architect/Engineer shall include the specification requirements here. The area of the plaque shall not exceed 432 square inches. It shall contain only lettered information, and a border (if specified by the Architect/Engineer).

~~13.2 Information to be provided on the plaque will be limited to the following:~~

- ~~13.2.1 Chairperson of the Board of Regents,~~
- ~~13.2.2 Vice Chairperson of the Board of Regents,~~
- ~~13.2.3 Members of the Board of Regents,~~
- ~~13.2.4 Chancellor of the State University System,~~
- ~~13.2.5 University President,~~
- ~~13.2.6 Contractor,~~
- ~~13.2.7 Architect/Engineer, and~~
- ~~13.2.8 Date (Year of Completion).~~

All individuals listed shall be those who were in their positions on the date of construction contract award.

**SUPPLEMENT TO PROJECT MANUAL  
The Florida State University**

**for: Minority Business Involvement  
Bid Protests  
Insurance  
Verification of Subcontractor Licensure**

(This supplement revises portions of the Project Manual for Florida State University projects dated October 16, 1989, and supersedes any other previously issued supplements related to the referenced topics.)

**REVISE THE INSTRUCTIONS TO BIDDERS SECTION OF THE PROJECT MANUAL AS FOLLOWS:**

**1. Revise Paragraph B-15, Listing of Subcontractors, to read as follows:**

**B-15 LISTING OF SUBCONTRACTORS**

Each Bidder shall submit with the Proposal a full and proper list of the subcontractors who will perform the segments of the Work as indicated by the List of Subcontractors Form contained in this Project Manual.

The Bidder shall have determined to the Bidder's own complete satisfaction that a listed subcontractor has been successfully engaged in this particular type of business for a reasonable length of time, has successfully completed installations comparable to that which is required by this Contract and is qualified both technically and financially to perform that pertinent subcontract for which the subcontractor is listed. If a Bidder lists itself to perform a particular segment of the Work, it must hold the applicable license as required by law.

Subcontractors shall be listed in such a way that their identities may not be confused with other subcontractors doing business under the same or similar name. The street address or telephone number, or the registration or certification number shall be provided on the Proposal form for this purpose.

**2. Revise Paragraph B-22, Bid Protest, to read as follows:**

**B-22 BID PROTEST**

Any person who is affected adversely by the Owner's decision or intended decision shall file with the Director of Facilities Design and Construction, Florida State University, 109 Mendenhall Maintenance Building A, Tallahassee, Florida 32306-4152, a notice of protest in writing within 72 hours, excluding Saturday, Sunday and state legal holidays, after receipt of the bidding documents if the protest is directed toward the bidding conditions or after the notice of the Owner's decision or intended decision on contract award or bid rejection if the protest is directed toward contract award or bid rejection.

Thereafter, a formal written protest by petition in compliance with Chapter 120, F.S., must be filed with the Director of Facilities Design and Construction, Florida State University, 109 Mendenhall Maintenance Building A, Tallahassee, Florida 32306-4152, within ten (10) calendar days after the date the notice of protest was filed.

Failure to file a timely notice or protest or failure to file a timely formal written protest petition shall constitute a waiver of protest proceedings.

Any protest filed prior to receipt of the notice of the Owner's decision or intended decision will be considered abandoned unless renewed within the time limit provided for protests.

**3. Revise Paragraph B-23, Contract Award, to read as follows:**

B-23 CONTRACT AWARD

The contract award will be made to that responsible Bidder submitting the low responsive aggregate bid within the pre-established construction budget. The aggregate bid shall consist of the base bid plus accepted additive alternates, applied in the order in which they are listed in the bidding documents. Alternates will not be skipped in the award determination process. If the base bid exceeds the amount of the pre-established construction budget, the Owner may reject all bids.

**4. Revise Paragraph B-25, Minority Involvement Plan, to read as follows:**

B-25 MINORITY INVOLVEMENT PLAN

Bidders are encouraged to utilize Minority Business Enterprises certified by the Department of Management Services, Office of Supplier Diversity.

**REVISE THE FOLLOWING PARAGRAPHS OF THE GENERAL CONDITIONS SECTION OF THE PROJECT MANUAL AS FOLLOWS:**

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect/Engineer has made a reasonable objection. The Contractor shall not contract with any subcontractor which does not hold the proper contractor's license as required by the State of Florida. Inclusion of the Subcontractor's name in the list provided in accordance with Subparagraph 5.2.1 shall constitute a certification by the Contractor that the Subcontractor is properly licensed. Thereafter, by signing the monthly Florida State University Certificate of Partial Payment, the Contractor will certify that all Subcontractors providing services for the Work are properly licensed. The Contractor shall not be required to contract with anyone to whom the Contractor has made a reasonable objection.

**11.1 CONTRACTOR'S LIABILITY INSURANCE**

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in ~~the jurisdiction in which the Project is located~~ Florida such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance policies shall be issued and countersigned by representatives of such companies duly authorized for the State of Florida and shall be written on ISO standard forms or their equivalents. The Contractor shall provide the ISO Commercial General Liability policy for general liability coverages. All liability policies shall provide that the Owner is a named additional insured as to the operations of the Contractor under the Agreement and shall provide the Severability of Insureds Provision. Further, there shall be a waiver of subrogation provision in favor of the Owner to protect the interests of the Owner. The Owner shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the responsibility solely of the Contractor and/or Subcontractor providing such insurance. This insurance shall protect the Contractor from the following claims:



(Clauses 11.1.1.1 through 11.1.1.7 are unchanged from the October 16, 1989 project manual.)

### 11.3 PROPERTY INSURANCE

11.3.1 ~~Unless otherwise provided, the Owner~~ The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located with an admitted carrier in the State of Florida, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis, including, where applicable, the existing structure without voluntary deductibles. Coverage for existing structures shall include all perils described in Clause 11.3.1.1 below. Such property insurance (builder's risk) shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

11.3.1.1 Property insurance shall be written on a Builder's Risk form or its equivalent and shall include coverage on a replacement value basis. Property covered by this insurance shall include property of the Owner, Contractor, Subcontractors and Sub-subcontractors, consisting of materials, supplies, machinery, equipment and fixtures which will become a permanent part of the Work at the Project site. Property covered by this insurance shall also include temporary building(s) or structure(s) at the site other than office trailer(s). The perils insured under this insurance shall be at least equivalent to the insured perils of the Causes of Loss-Special Form as published by the Insurance Services Office, Inc. an all-risk policy form and shall insure against the periods of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover including reasonable compensation for Architect/Engineer's services and expenses required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

11.3.1.2 ~~If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor, then the Owner shall bear all reasonable costs properly attributable thereto. Any special insurance requirements will be addressed in the Special Conditions or in Supplementary General Conditions.~~

11.3.1.3 ~~If the property insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of such deductibles, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the Owner and the Contractor. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.~~

11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

~~11.3.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner, this- When the Work includes the repair, removal, installation and/or testing of live steam boilers, valves, pipes or lines, then this insurance shall include coverage at least equivalent to the Boiler and Machinery Coverage Form as published by the Insurance Services Office, Inc. This insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.~~

~~11.3.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.~~

~~11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.~~

~~11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction periods, the Owner shall waive all rights in accordance with the terms of Sub paragraph 11.3.7 for damages caused by fire or other perils covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.~~

~~11.3.3-11.3.6 Before an exposure to loss may occur, the Owner Prior to commencement of the Work, the Contractor shall provide the Owner with a Certificate of Insurance which evidences the property insurance (builder's risk) provided by the Contractor. This Certificate of Insurance shall include an Additional Named Insured Provision and a Waiver of Subrogation Provision in favor of the Owner to protect the interests of the Owner. Upon receipt of the policy, the Contractor shall file with the Contractor Owner a copy of each policy that included insurance coverages required by this Paragraph 11.3. Each policy shall contain all generally applicable conditions, definition, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor Owner.~~

~~11.3.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even through that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.~~

~~11.3.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.3.10. The Contractor shall pay subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their Sub-subcontractors in similar manner.~~

~~11.3.4-11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.5. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order. — A loss or losses insured under this insurance shall be adjusted by the Contractor and its insurance company. The Contractor shall repair or replace the damaged property with the proceeds from the builder's risk policy. The Contractor shall be responsible for all damages and necessary repairs whether or not the loss is covered by the builder's risk policy.~~

~~11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power, if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.5. The Owner as fiduciary shall, in that case, make settlement with insurers in accordance with directions of such arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.~~

~~11.3.5 11.3.11~~ Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

## **REVISE THE SPECIAL CONDITIONS PORTION OF THE PROJECT MANUAL AS FOLLOWS:**

**Revise Article 1, Minority Business Enterprise Requirements to read as follows:**

### ARTICLE 1

#### MINORITY BUSINESS ENTERPRISE INVOLVEMENT

1.1 Chapter 287, Florida Statutes, encourages the Owner to involve minority firms in its construction program. The Contractor is thus encouraged to utilize minority business enterprises, certified by the Department of Management Services, Office of Supplier Diversity, in the Work.

1.2 If the Contractor is utilizing certified minority business enterprises in the Work, it shall submit the following information regarding payments made to the minority business enterprise with each pay request on a summary form: name of minority business, contract amount, amount paid to date, amount requested this pay period, and remaining contract balance.

# SECTION M

## SUPPLEMENTARY GENERAL CONDITIONS FOR CONSTRUCTION MANAGEMENT CONTRACTS

*(These Supplementary General Conditions are supplemental to the State University System version of AIA Document A201, dated 16 October 1989, and are to be used when a construction manager is providing construction services.)*

**Subparagraph 1.1.1, THE CONTRACT DOCUMENTS**, add the following to the end of the Subparagraph:

Upon acceptance of a Guaranteed Maximum Price (GMP), an Amendment to the Agreement will be executed which itemizes the Contract Documents.

**Subparagraph 1.1.3, THE WORK**, add the following to the end of the Subparagraph:  
The Work does not include preconstruction services.

**Subparagraph 1.1.7, revise to read as follows:**

1.1.7 THE PROJECT MANUAL

Where used in the General and Special Conditions of the Contract, the term "Project Manual" refers to the standard State University System Project Manual dated October 16, 1989.

**Paragraph 1.2, Subparagraph 1.2.1, and Clause 1.2.1.1, DELETE.**

**Subparagraph 1.2.2, DELETE.**

**Subparagraph 2.2.1, revise to read as follows:**

2.2.1 The Owner shall, at the request of the Construction Manager, prior to execution of the Guaranteed Maximum Price amendment to the Agreement, furnish to the Construction Manager reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract.

**Subparagraph 2.2.5, revise to read as follows:**

2.2.5 Unless otherwise provided in the Contract Documents, the Construction Manager will be furnished, free of charge, one reproducible copy of Drawings and Specifications for execution of the Work. The cost of document reproduction for issuance to Trade Contractors shall be included in the Guaranteed Maximum Price.

**Subparagraph 3.2.1, add the following after the first sentence:**

The Construction Manager shall make recommendations to the Architect/Engineer, whenever possible, to facilitate resolutions.

**Subparagraph 3.4.1, add the following to the end of the Subparagraph:**  
The cost for these items shall be included in the GMP.

**Clause 3.4.1.1, add the following to the end of the Clause:**  
The cost for these items shall be included in the GMP.

**Clause 3.12.5.6, revise to read as follows:**

3.12.5.6 A list of all materials and equipment, together with manufacturers' drawings and catalog information shall be submitted to the Architect/Engineer for approval prior to ordering material or equipment but not later than 21 days after execution of the specific trade contract. Information submitted shall show the capacity, operating conditions and all engineering data and descriptive information. The Architect/Engineer's approval will not relieve the Construction Manager of the responsibility for performance of any terms of the Contract Documents.

**Subparagraph 3.13.2, add:**

3.13.2 Ascertain any restrictive traffic conditions and comply with reasonable requests of local authorities and the Owner in the use and operation of trucks and equipment on the site. Protect existing curbs, walks or other improvements from damage by heavy equipment.

**Subparagraph 4.2.4. (This Subparagraph shall be effective only during the Construction Phase of the Project.)**

**Subparagraph 4.2.11, revise to read as follows:**

4.2.11 The Architect/Engineer will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect/Engineer's response to such requests for information will be made within seven calendar days after receipt of the written request.

**Subparagraph 5.2.1, revise to read as follows:**

5.2.1 The Construction Manager shall request and receive proposals from Trade Contractors. Trade Contracts will be awarded after the proposals are reviewed by the Architect/Engineer, Construction Manager, and Owner, and execution is authorized by the Owner in writing.

**Subparagraph 5.2.5, revise to read as follows:**

5.2.5 The Construction Manager shall require the Trade Contractors to provide the names of all major Sub-subcontractors and/or material and equipment manufacturers within 45 days of award of the trade contract. The following list is suggested but can be reduced or expanded at the discretion of the Architect/Engineer or as directed by the Owner: (Clauses 5.2.5.2 through 5.2.5.16 remain unchanged)

**Subparagraph 6.1.4, add:**

6.1.4 If any part of the Construction Manager's Work depends upon the work of any separate contractors, the Construction Manager shall carefully inspect such work and before beginning Work, promptly report to the Architect/Engineer any apparent discrepancies or defects that render the separate contractor's work unsuitable to receive Construction Manager's Work. Failure of the Construction Manager to so inspect and report shall constitute an acceptance by the Construction Manager of the other contractor's work as fit and proper to receive Construction Manager's Work, except as to defects not reasonably discoverable by inspection.

**Subparagraph 8.1.2, revise to read as follows:**

8.1.2 The date of commencement of the Work is the date established in the notice to proceed accompanying the GMP Amendment to the Agreement. The date shall not be postponed by the failure to act of the Construction Manager or of persons or entities for whom the Construction Manager is responsible.

**Subparagraph 8.1.3, revise to read as follows:**

8.1.3 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the GMP Amendment to the Agreement, the Construction Manager confirms that the Contract Time is a reasonable period for performing the Work.

**Subparagraph 9.1.1, revise to read as follows:**

9.1.1 The Contract Sum is established in the GMP Amendment to the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Construction Manager for performance of the Work under the Contract Documents.

**Subparagraph 10.2.8, add:**

10.2.8 In the event of accidents involving personal injury or property damage, the Construction Manager shall immediately notify the Owner and furnish as much data as is available. As soon as practicable, the Construction Manager shall submit a written report to the Owner regarding the extent of damage or injury; the persons involved and their employers; the number of days persons are to be hospitalized; and any other pertinent information required by the Owner. The Construction Manager shall require similar information from the Trade Contractors.



## Accepting Electronic Payments from PayMode® Vendor Discussions for Florida State University



**Florida State University has chosen Bank of America's PayMode to make electronic payments to certain vendors and suppliers.** Participation in this initiative will yield many benefits to the vendor.

- **Fits with existing systems and banking practices**
  - PayMode requires no purchase of software
  - No modifications to your existing accounts receivable systems
  - No changes to your bank or bank accounts
  - Vendor does not need a Bank of America deposit account
  
- **Includes detailed remittance information**
  - PayMode enables delivery of digital remittance information along with the payment for easier reconciliation.
  - An e-mail is sent by PayMode to the vendor when the funds are deposited into their bank account
  - Ability to access historical deposit data and provides for on-line download options available through the PayMode application
  
- **Saves time and money**
  - PayMode reduces the labor, expense, and risk associated with checks and other traditional payment methods.
  - There is no charge to receive a payment from FSU via PayMode
  
- **Security**
  - PayMode utilizes the highest levels of encryption and electronic security available
  
- **Better control and predictability of cash flow**
  - Tracks inbound payments in real time to better manage available cash and working capital
  - Electronic payments through PayMode provide cash flow benefits by eliminating mail and paper check float



## Accepting Electronic Payments from PayMode® Vendor Discussions for Florida State University



- **Easy to Use/Easy to Enroll**
  - Receiving payments, creating reports for viewing, updating account information and enrolling is all accomplished on-line via the secure PayMode website
  - [www.bankofamerica.com/paymode/fsu](http://www.bankofamerica.com/paymode/fsu)
  - Enrollment takes less than ten minutes
  - Required information to complete the enrollment includes:
    - EIN number
    - Bank transit routing number
    - Bank account number
    - Company profile data such as address and phone
  - PayMode vendor enrollment staff are available M-F, 8 am to 5 pm ET to assist with the enrollment if the vendor prefers live help – toll free, 866-252-7366
  
- **Customer Support**
  - PayMode live customer support is available 8 am to 8 pm ET
  - Toll free 877-443-6944
  - Links to access Customer Support via email are on every screen of the PayMode application



**The Florida State University**  
 Guidelines for Construction Managers for the  
 Preparation of Proposals for Pre-Construction Services

The construction manager is typically selected at the beginning of the design process. The Guaranteed Maximum Price is usually prepared based on 50% Construction Documents. In these typical cases the preconstruction deliverables include reports at the completion of Advanced Schematic Design, Design Development and 50% Construction Documents. The deliverable at 50% Construction Documents includes the Guaranteed Maximum Price proposal. Reports include discussion of the items outlined in the Agreement as preconstruction services.

If the design phases are different from the standard phases, or deliverables are required which differ from the standard project described above, the construction manager will be notified, and the preconstruction proposal will be prepared accordingly.

The following costs are to be included in the proposal:

- direct labor costs
- travel (when approved)
- personnel expense
- overhead (included as a multiplier)
- printing costs
- Number of hours by team member for each phase

A sample format:

Proj. Name	Rates	SD		DD		50%/GMP		Preconst.	
Proj. No.	\$/hr	hours	total \$	hours	total \$	hours	total \$	hours	Total \$
Proj. Exec.	35	0	0	0	0	4	140	4	140
Proj. Director	29	24	696	72	2,088	96	2,784	192	5,568
Proj. Mgr.	25	16	400	72	1,800	96	2,400	184	4,600
Sr. Estimator	28	16	448	12	336	24	672	52	1,456
Estimators	22	0	0	24	528	32	704	56	1,232
Total Direct Labor		56	1,544	180	4,752		6,700	488	12,996
*Multiplier			1.45		1.45		1.45		
Total Labor Cost			2,239		6,890		9,715		18,844
*Travel			0		0		0		
*Printing			75		100		125		300
Project Total			2,314		6,900		9,840		19,144

\*see breakdowns listed below

**NOTE: The multiplier, travel (if allowed) and printing items must include a further breakdown.**

**TRAVEL BREAKDOWN**

- Driving--the number of miles to be traveled times the state mileage rate (currently \$0.445 per mile)
- Flying--the air fare
- Approved State of Florida per diem amount for meals
  - \$6 for breakfast (if trip commences prior to 6.00 a.m.)
  - \$11 for lunch
  - \$19 for dinner (if the trip extends beyond 8:00 p.m.)
- Hotel rate.

*Firms who represent that they have, or will have, an office local to the project site are not eligible for travel expenses.*

**PRINTING BREAKDOWN**

- Number of pages of specifications times the printing rate
- Number of sheets of plans times the printing rate.

**MULTIPLIER BREAKDOWN**

The multiplier breakdown must be documented for each individual as provided in the Multiplier Template, which is included as a separate form. Overhead and profit are not included in the preconstruction phase, as those items will be included in the GMP for the construction phase.

**The Florida State University**  
Procedures for Self-Performance of Work  
On Florida State University Construction Management Projects

These procedures are to be followed for any Work which is neither included in the CM's fee (percentage amount for OH&P), nor competitively bid.

Paragraph 2.2 of the Agreement between Owner and Construction Manager provides, "Unless otherwise authorized by the Owner, all Work shall be performed under Trade Contracts held by the construction manager. The construction manager shall not bid on any of the Trade Contractor Work or perform such Work with its own forces without the prior written consent of the Owner, in accordance with FSU Online Policies and Procedures OP-B-11-D3, Administration of Construction Manager Agreements.

**PRIOR CONSENT**

The construction manager must make its request to self-perform Work to the university. If the university concurs, the project manager shall send written authorization to the construction manager.

**Consent may be given either:**

- 1) for the CM to bid on a specific portion of the Work, or
- 2) for the CM to submit a proposal for self-performance of the Work, together with three quotes from other contractors for performance of that same Work. If the CM is unable to secure three quotes due to insufficient trade contractor interest, the CM shall provide documentation of its efforts to secure the required quotes.

**Items which will be considered for self-performance include, but are not limited to:**

- 1) General Conditions items.
- 2) Work for which sufficient scope does not exist to attract trade contractor interest, or for which the schedule for the Work spans a time period which is sporadic and broken over the duration of the Project.
- 3) Work which must be performed to eliminate safety violations or remedy emergency conditions.
- 4) Unforeseen Work for which the timing has significant and negative impact on the schedule of the project, or Work for which the Owner mandates an accelerated schedule to complete component parts of the Project. (Circumstances such as completeness of architectural drawings, time required to generate appropriate bid packages, and change order liability will be considered.)
- 5) Portions of the Work for which the CM has a proven track record of performing such Work, and for which the participation by the CM would be advantageous to the Owner.

**Supporting Documentation for Award of Self-Performed Work**

If the CM is awarded work to be self-performed, it must submit to the Owner a staffing plan and cost breakdown with the trade contract recommendation.

# FORMS



SECTION K

ASSIGNMENT OF ANTITRUST CLAIMS

Upon receiving award of Contract, the Contractor and major Sub-Contractors agree to execute the following Assignment:

For and in recognition of good and valuable consideration, receipt of which is hereby acknowledged, \_\_\_\_\_

(Company Name)

\_\_\_\_\_ acting herein by and through \_\_\_\_\_

(Authorized Individual's Name)

its \_\_\_\_\_

(Title of Authorized Individual whose signature appears below)

and duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of Florida all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by the State of Florida pursuant to

\_\_\_\_\_ (state Contract Name, Number, Etc.)

PLACE SEAL HERE

By: \_\_\_\_\_

As Witnessed By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ (Company Name)

**FLORIDA STATE UNIVERSITY  
QUOTE TABULATION AND NOTICE OF AWARD RECOMMENDATION**

PROJECT NUMBER: xxx  
PROJECT TITLE:

QUOTE OPENING: mm/dd/yy

CONTRACTOR	BASE BID	ALTERNATE 1	ALTERNATE 2	ALTERNATE 3

Bid Opening by:     Date:     Bids Tabulated By:     Date:     Bids Verified By: \_\_\_\_\_ Date: \_\_\_\_\_ Endorsed By Project Director: \_\_\_\_\_ Date: \_\_\_\_\_  
This is to advise you that Florida State University has recommended that the contract for the referenced project to awarded to the firm of \_\_\_\_\_, in the amount of \$ \_\_\_\_\_ accepting the \_\_\_\_\_ determined to be the lowest acceptable qualified bid.

Tabulation with recommended awards(s) will be posted at Facilities Purchasing Department for review by interested parties shortly after the scheduled opening date of the invitation, and will remain posted for a period of 72 hours, not including Saturday, Sundays, and Holidays. Any person who is affected adversely by the University's decision or intended decision in connection with this proposal shall file a written "Notice of Protest" is considered filed when it is received at the address listed on the front of the Acknowledgement Form. Failure to file a "Formal Protest" and the required bond under Rule 6C-2.015(13), within 10 days after filing the "Notice to Protest" shall constitute a waiver of proceedings under Section 120.57(3), (g), Florida Statutes

**FLORIDA STATE UNIVERSITY**

**CERTIFICATE OF CONTRACT COMPLETION**

**PROJECT:**

**CONTRACTOR:**

**CONTRACT DATE:**

**CONTRACT AMOUNT:**

**COMPLETION DATE:**

**CONTRACTOR'S AFFIDAVIT**

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

**CONTRACTOR:**

**TITLE:**

**DATE:**

**STATE OF:**

**COUNTY OF:**

Personally appeared before me this \_\_\_\_\_ day of 20

\_\_\_\_\_, known (or made known) to me

to be the

**(Owner**

Contractor(s), who, being by me duly sworn, subscribed to the forgoing affidavit in my presence.

(Notary Public)

(Type Name):

My Commission Expires:

**FLORIDA STATE UNIVERSITY**

**CERTIFICATE OF CONTRACT COMPLETION**

**PROJECT:**

**CONTRACTOR:**

**CONTRACT DATE:**

**CONTRACT AMOUNT:**

**COMPLETION DATE:**

**CERTIFICATE OF ARCHITECT/ENGINEER**

**I CERTIFY:** That, to the best of my knowledge and belief, the Work under the Owner-Contractor Agreement by and between the Florida State University, State of Florida and \_\_\_\_\_, dated \_\_\_\_\_, has been satisfactorily completed under the terms of the Contract; that the Work is recommended for occupancy by the Owner; and that the Contractor has submitted a sworn affidavit as evidence that the Contractor has paid all labor, materials and other charges against the Project in accordance with the terms of the Contract.

**A/E Firm Name:**

**By:** \_\_\_\_\_

**Date:**

**CERTIFICATE OF ACCEPTANCE BY UNIVERSITY**

**THIS IS TO CERTIFY:** That, based upon the statements made in the above affidavit and certificate, the Work is hereby accepted as completed for occupancy, operation and maintenance.

**By:**

**Title:**

(Authorized Representative)

**Date:**



FLORIDA STATE UNIVERSITY  
CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NO: \_\_\_\_\_

DATE:

The Work, or portion of the Work identified on an attachment hereto, performed under the Contract dated \_\_\_\_\_ between FLORIDA STATE UNIVERSITY, STATE OF FLORIDA, OWNER, and \_\_\_\_\_, Contractor, for the construction of \_\_\_\_\_, was inspected and found to be substantially completed as of \_\_\_\_\_.

The Date of Substantial Completion of the Work or designated portion thereof is the date certified by the Architect/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it was intended.

A list of items to be completed or corrected is appended hereto. This list may not be exhaustive and the failure to include an item on it does not alter the responsibility of the Contractor to complete all the Work in accordance with the Contract Documents, including authorized changes thereto.

The Contractor shall complete or correct the Work on the list of items appended hereto within \_\_\_\_\_ calendar days from the Date of Substantial Completion.

Owner assumed or will assume full possession and responsibility for security of the facility above described on \_\_\_\_\_.

The responsibility of the Contractor to provide utilities shall cease on the date the Architect/Engineer determines the Work to have been substantially completed in accordance with the requirements of the Contract Documents. On the date so established by the Architect/Engineer as the date of Substantial Completion of the project, or beneficial occupancy, whichever comes first, the one year warranty shall commence running. All insurance coverages shall continue in force as provided by the Contract Documents.

ARCHITECT/ENGINEER

CONTRACTOR

(type name of firm)

(type name of firm)

By:

By:

\*\*\*\*\*FLORIDA STATE UNIVERSITY\*\*\*\*\*

By:

Project Manager

By:

President or Designee

**FLORIDA STATE UNIVERSITY CONSTRUCTION CONTRACT CHANGE ORDER**

Change No.:

Date:

Project :

Project No.:

Architect/Engineer:

A/E Job No.:

To (Contractor):.

Your proposal dated \_\_\_\_\_ has been accepted for making the following changes:

DESCRIPTION OF CHANGE				DECREASE	INCREASE
NOTICE TO PROCEED DATE:		ORIGINAL CONTRACT SUM:			
Contract Time	Days	Complete*	Subtotal		
Present Contract			New (Add) (Deduct)		
This Change			Present Contract Sum		
New Contract Time			New Contract Sum		

\* SUBSTANTIAL COMPLETION DATE

This Change Order is an amendment to the Owner-Contractor Agreement, and all contract provisions shall apply unless specifically exempted. The amount and time change designated are the maximum agreed to by both the Owner and the Contractor for this change. In consideration of the foregoing adjustments in Contract Time and Contract Sum, the Contractor hereby releases Owner from all Claims, demands, or causes of action arising out of the transactions, events and occurrences giving rise to this Change Order. This written Change Order is the entire agreement between Owner and Contractor with respect to this Change Order. No other agreement or modification shall apply to this contract amendment unless expressly provided herein.

AGREED

\_\_\_\_\_  
Contractor DATE

\_\_\_\_\_  
Architect/Engineer DATE

\_\_\_\_\_  
President or Designee DATE

FLORIDA STATE UNIVERSITY  
CONSTRUCTION CONTRACT CHANGE ORDER JUSTIFICATION FORM

Architect/Engineer shall supply  
all of the following information:

Project is \_\_\_\_% complete  
as of  
(Date)

Change No: \_\_\_\_\_

FSU Project No: \_\_\_\_\_

Project is \_\_\_\_% ahead of schedule.

Project is \_\_\_\_% behind schedule.

NECESSITY AND JUSTIFICATION FOR CHANGE:

Change initiated by: Owner \_\_\_\_\_ A/E: \_\_\_\_\_ Contractor: \_\_\_\_\_

University has confirmed funds for change are available: Yes \_\_\_\_ No \_\_\_\_.

Give the following information for each item:

**NECESSITY** - Why is this Change Order necessary?

**RESPONSIBILITY** - Who has necessitated this Change Order?

**ORIGINAL CONTRACT** - Why was this condition not considered in the original Contract Documents?

**PAYMENT** - Who is going to pay for the change if the liability rests with party/parties other than the Owner?

**EXPLANATION** - Supply a detailed explanation of each item to be performed in this Change Order. This must be a complete statement of labor and material.

**JUSTIFICATION** - Supply a complete justification for this work in a clear and concise summary statement.

**EFFECT ON PROJECT** - Operation, maintenance, space and size.

Architect/Engineer hereby certifies that no costs are included for corrective work made necessary by error or fault attributable to Architect/Engineer.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

## Florida State University Certificate of Partial Payment

Request No. \_\_\_\_\_ A/E Job No. \_\_\_\_\_ FSU Purchase Order. \_\_\_\_\_  
 Contractor Proj No \_\_\_\_\_ FSU Project No. \_\_\_\_\_

Project: \_\_\_\_\_  
 \_\_\_\_\_

Contractor: \_\_\_\_\_  
 \_\_\_\_\_

Contract Time (calendar days): \_\_\_\_\_ No. of Days Elapsed to Date: \_\_\_\_\_

ADDITIONS	DEDUCTIONS

Change Orders Approved to Date: \_\_\_\_\_  
 Net Amount of Change Orders: \_\_\_\_\_

ORIGINAL CONTRACT SUM: \_\_\_\_\_  
 ADJUSTED CONTRACTED SUM: \_\_\_\_\_  
 BALANCE TO FINISH: \_\_\_\_\_  
 COMPLETED TO DATE: \_\_\_\_\_  
 MATERIALS STORED: \_\_\_\_\_  
 TOTAL COMPLETED AND STORED: \_\_\_\_\_  
 LESS RETAINAGE ( %): \_\_\_\_\_  
 TOTAL: \_\_\_\_\_  
 LESS PREVIOUS PAYMENTS: \_\_\_\_\_  
 AMOUNT THIS CERTIFICATE: \_\_\_\_\_

**CERTIFICATION BY CONTRACTOR:** According to the best of my knowledge and belief, I certify that all items and amounts shown on the face of this Application are correct, that all Work has been performed and material supplied in full accordance with the terms and conditions of the Contract, and that all just and lawful bills against me and my Subcontractors for labor and equipment employed in the performance of this Contract have been paid in full in accordance with the terms and conditions.

Date: \_\_\_\_\_ Contractor: \_\_\_\_\_

STATE OF FLORIDA, COUNTY OF \_\_\_\_\_  
 Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.  
 Notary Public: \_\_\_\_\_ Commission Expires: \_\_\_\_\_

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

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Architect/Engineer

**REVIEWED AND RECOMMENDED FOR PAYMENT  
 BY OWNER'S REPRESENTATIVE**

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Project Manager

# Florida State University

## Construction Manager Multiplier Template

Company Name: \_\_\_\_\_  
 Employee Name: \_\_\_\_\_  
 Project Role: \_\_\_\_\_  
 Date: \_\_\_\_\_

**1 Base Salary**      **\$ 100,000.00**      1.000000  
 Pre-Tax Deductions, please itemize

**Total, Pre-tax deductions**

**Taxable Benefits from below, please itemize**

**Total, Taxable Benefits**

**Taxable Salary (Salary less Pre-Tax Deductions plus Taxable Benefits)**

Use Taxable Salary to calculate multipliers on Payroll Taxes only.  
 All other lines use Base Salary to calculate multipliers

2 Payroll Taxes	Limit/Rate			
FICA	100,000.00	6.20%	6,200.00	0.062000
Medicare	100,000.00	1.45%	1,450.00	0.014500
State Unemployment (rate varies)	7,000.00	3.60%	252.00	0.002520
Federal Unemployment	7,000.00	6.00%	420.00	0.004200

**3 Workers Comp**

**4 Vehicle Allowance** (actual - max rate \$600/mo)      12      -      -

**5 Health Insurance** (actual monthly calc)      12      -      -

**6 Retirement** (use actual)

**7 Leave Benefits** (use actual)

Vacation	hours (x weeks)	-
Sick Leave	hours (x weeks)	-
Holidays	hours (x days)	-

**8 Cell phone** (actual - max rate of \$75/mo)      12      -      -

<b>Total Cost Multiplier:</b>	<b>1.083220</b>
<b>Hourly Rate:</b>	<b>48.076923</b>
<b>Total Chargeable Rate:</b>	<b>52.08</b>

As Witnessed by:

Attested by the Construction Manager:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

- Bonus**      Not allowed. Discretionary between the employee and the company
- Inflation**      Not allowed. Submit new attested multiplier upon approval of any rate increases
- IT**      If allowed, include in general conditions
- Liability Ins**      Include in general conditions
- Safety**      Include in general conditions
- Training**      Not allowed. Considered a company overhead expense.
- Taxes**      Confirm SUTA for your business. FUTA may be reduced by the amount of the state rate.
- Vehicle Allow**      Must be consistent with employee contract or company handbook policy
- Workers Comp**      Specify class code and rate
- Signature**      An Officer of the firm
  
- Certification**      Submit an independent CPA attested multiplier rate annually or anytime there are changes to the base rate or multiplier components for each individual. Exception: changes to payroll taxes or worker's comp rates may be documented via letter and do not require independent attestation.

**FLORIDA STATE UNIVERSITY**  
**CONSTRUCTION CHANGE DIRECTIVE**

**Change No:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Project:** \_\_\_\_\_ **Project No:** \_\_\_\_\_  
**Architect/Engineer:** \_\_\_\_\_ **A/E Job No:** \_\_\_\_\_  
**To (Contractor):** \_\_\_\_\_

You are hereby directed to make the following change(s) in this Contract:

DESCRIPTION OF CHANGE				DECREASE	INCREASE
(Describe the basis of adjustment to Contract Sum, and included Change Order justification Form. Attach additional sheets if required.)					
<b>NOTICE TO PROCEED DATE: ORIGINAL CONTRACT SUM</b> _____					
Contract Time	Days	Complete*	Subtotal		
Present Contract			New (Add) (Deduct)		
This Change			Present Contract Sum		
New Contract Time			New Contract Sum		

\*Substantial Completion Date:

When signed by the Owner and Architect/Engineer and received by the Contractor, this document becomes effective **IMMEDIATELY** as a Construction Change Directive (CCD), and the Contractor shall proceed with the change(s) described above.

AGREED

\_\_\_\_\_  
ARCHITECT/ENGINEER                      DATE

\_\_\_\_\_  
**PRESIDENT OR DESIGNEE**                      **DATE**

\*\* President's signature required for final Change Order approval  
\_\_\_\_\_ Yes      \_\_\_\_\_ No

\*\* The University shall determine whether the Change Order falls outside the President's authority as established in State University System Standard Practice No. 00-0000-3-04-14.

Signature by the Contractor indicates the Contractor's agreement with the proposed adjustments in Contract Sum and Contract time set forth in this Construction Change Directive, and this Construction Change Directive becomes a change order to the Owner-Contractor Agreement.

\_\_\_\_\_  
**PRESIDENT OR DESIGNEE**                      **DATE**



**Firm:** ABC

Address

City, State

**Construction Budget:**

**Project Title:**

**(Design) Notice to Proceed:** 01/01/16

**Project Number:**

**Substantial Completion:** 01/01/16

**Evaluation Date:** 01/28/16

**Managing Principal:**

**Final Completion:** 01/01/16

**Evaluation Type:** Semiannual

**Project Architect:**

**Project Closeouts:** 01/01/16

**Project Manager:**

**Project CM:**

**Consultants:**      **Mechanical:**  
                                  **Electrical:**  
                                  **Structural:**  
                                  **Civil:**

Note to Evaluator: Enter Ratings in boxes using whole numbers from the following scale: 5 = Outstanding, 4 = Above Satisfactory, 3 = Satisfactory, 2 = Below Satisfactory, 1 = Poor, 0=N/A

	<u>Rating</u>	<u>Comments</u>
<b>Team</b>		
Principal	3	
Project Architect	3	
Subconsultant Services	3	
Cooperation/Concern for FSU Interests	3	
Value Added Design Expertise/Special Services	3	
<b>Pre Design Analysis</b>		
Special Studies or Analysis	3	
Programming Services	3	
<b>Design</b>		
Achievement of Study/Program/Design Objectives	3	
Coordination & Quality of the Technical Services	3	
Adherence to FSU Criteria/Design Guidelines	3	
Responsiveness to Schedule & Budget	3	
<b>Construction Administration</b>		
Administration/Enforcement of Contract Docs	3	
Budget & Change Management	3	
Ability to Work with the Construction Team	3	
Quality & Timeliness of Reports and Records	3	
Review of CM Submittals/Paperwork	3	
<b>Post Construction Administration</b>		
Management of Punchlist/Close-Out	3	
LEED Management	3	
Adequacy Of As Built Information	3	
Responsiveness To Warranty Issues	3	

**Overall Performance Rating is** 12.0 Satisfactory

OPR is rated as OPR ≥ 18 = Outstanding, 18 > OPR ≥ 14 = Above Satisfactory, 14 > OPR ≥ 10 = Satisfactory, 10 > OPR ≥ 6 = Below Satisfactory, 6 > OPR = Poor

**For Florida State University:**

Signature/Name: Lawrence R. Rubin, RA

Date

Director of Facilities Design and Construction



**Firm: Builders**  
 Address  
 Tallahassee, FL 32301

**Construction Budget:**  
**Notice to Proceed:**  
**Substantial Completion:**  
**Final Completion:**  
**Project Closeouts:**

**Project Title:**  
**Project Number:**  
**Evaluation Date:** 1/28/16  
**Evaluation Type:** Semiannual  
**Project Manager:**

**Joint Venture:**  
**Project Manager:**  
**Superintendent:**

Note to Evaluator: Enter Ratings in boxes using whole numbers from the following scale: 5 = Outstanding, 4 = Above Satisfactory, 3 = Satisfactory, 2 = Below Satisfactory, 1 = Poor, 0 = N/A

	<u>Rating</u>	<u>Comments</u>
<b>Team</b>		
Superintendent	0	
Project Manager	0	
Home Office Support	0	
Pre-Construction	0	
Ability To Work With Design Team	1	
<b>Pre Construction</b>		
Value Engineering Effectiveness	0	
Cost Estimating Effectiveness	0	
Subcontractor Management	0	
Cooperation/Concern for FSU Interests	0	
Constructability Review	0	
Coordination And Scheduling Of The Work	1	
<b>Construction</b>		
Site Management	0	
Budget & Change Management	0	
Workmanship/Product Quality Assurance	0	
Quality & Timeliness of Reports and Records	0	
Quality of Service	0	
Management of Contingency Funds	0	
Management of Test & Balance/Commissioning	1	
<b>Post Construction</b>		
Accuracy & Timeliness of Punchlist	0	
Accuracy & Timeliness of Close Out Documents	0	
LEED Management	0	
Adequacy Of As Built Information	0	
Responsiveness To Warranty Issues	1	

**Overall Performance Rating is** 4.0 Poor

OPR is rated as OPR ≥ 18 = Outstanding, 18 > OPR ≥ 14 = Above Satisfactory, 14 > OPR ≥ 10 = Satisfactory, 10 > OPR ≥ 6 = Below Satisfactory, 6 > OPR = Poor

**For Florida State University:**

\_\_\_\_\_  
 Signature/Name: Lawrence R. Rubin, RA  
 Director of Facilities Design and Construction

\_\_\_\_\_  
 Date

## Agreement

### Payment for Materials Stored Off-Site

Project Name & Number: \_\_\_\_\_

Pursuant to Article 9.3.2 of the General Conditions of the Contract for Construction (Project Manual) for the above project, the Owner agrees to render to the Contractor as a progress payment as provided in the Contract, subject to the recommendation of the Architect/Engineer of record, payment for the materials described in the attachments to this Agreement which the Contractor has stored off-site, in return for the following assurances and certifications by the Contractor.

1. The attached list of materials, hereinafter called Materials, is made part of the agreement. The list of Materials shall be detailed sufficiently to identify said Materials (including photographs, if necessary), state the location of storage, and be documented by a copy of the invoice from the supplier. The Contractor, by signing this agreement certifies that the materials described are required for this project, and warrants that he holds clear title to the Materials and agrees to provide proof of ownership to the Owner upon demand.
2. The contractor agrees that the Materials will be stored at the location(s) indicated on the list and will not be moved to a different location, except for delivery to the project site, without first obtaining the Owner's express written permission.
3. The Contractor agrees to store the Materials and to deliver them to the project site in such a manner as to preclude any damage or diminishment in the appearance or function of any item. Any damaged or missing item will be replaced promptly at the Contractor's expense. The Contractor will arrange for the Owner or designee to inspect the Materials upon 24 hours notice.
4. Payment for the Materials shall constitute the Owner's sole financial obligation under this Agreement. The payment for the Materials in this Agreement is \$ \_\_\_\_\_
5. The Contractor agrees to indemnify the Owner and hold the Owner harmless from any and all claims, damages, losses and expenses (specifically including but not limited to court costs and attorney's fees) arising out of, or resulting from, the storage and delivery of the Materials to the project site.
6. The Contractor shall submit the following binding statements from the Contractor's insurer(s) attesting that:
  - a. The Contractor's public liability and property damage insurance names the Owner, Florida State University, a public body corporate of the State of Florida, as additional named insured which protects the Owner against damage to or loss of the Materials (including flood damages protection if the location makes it necessary) and against personal injury or property damage to third parties on account of the off-site storage.
  - b. The Contractor's "all-risk" insurance covers the off-site storage with the same scope and amounts of coverage as at the project site.

7. The Contractor shall submit the following binding statement from the Contractor's surety attesting that:

a. as to the Performance Bond:

"Surety acknowledges that Principal and Owner have made an arrangement under which Owner will pay to Principal a progress payment covering materials which will be stored off-site until needed to be brought to the project site for use or incorporation in the project. Surety notifies that notwithstanding such arrangement, Surety shall remain obligated under the Performance Bond for the failure or default by Principal for any reason to timely use or incorporate the materials in the project. This certification applies to both the materials and associated labor with respect to Principal's obligation to timely complete the project according to the contract specifications."

b. as to the Labor and Materials Payment Bond:

"Surety acknowledges that Principal and Owner have made an arrangement under which Owner will pay Principal a progress payment covering materials which will be stored off-site until needed to be brought to the project site for use or incorporation in the project. Surety notifies that notwithstanding such arrangement, Surety shall remain obligated under the Labor and Materials Payment Bond to ensure that all materialmen, laborers, suppliers and subcontractors having claims or disputes pertaining to the procurement and off-site storage of these materials are promptly paid by Principal subject to the conditions of the Bond."

8. Contractor agrees that title to the Materials is transferred to the Owner upon payment for the Materials and relinquishes any claim to said Materials. In the event of default of the construction contract, the Contractor shall deliver, within 5 working days, the Materials to the project site or other location as designated by the Owner.

9. The Architect/Engineer, by signing below, certifies that the Materials are as described and meet the specifications for the project.

10. This Agreement consists of the above with the referenced/attached documents.

AGREED:

\_\_\_\_\_  
For the Architect/Engineer Date

\_\_\_\_\_  
For the Contractor Date

\_\_\_\_\_  
For the Owner Date

**The Florida State University**  
Trade Contractor Recommendation Form

<b>Trade Contractor Recommendation/Approval Form</b>					Date :
					Bid Package :
Project : Name of Project Florida State University		Project # : FS-			
Bid Package #	Description	GMP Budget	Low Bid	Variance	Amount to Award
<b>Bid Alternates / Trade Negotiations</b>					
<b>TOTALS :</b>		\$0	\$0	\$0	\$0

**Low Bidder Information :**

Firm Name:  
Address:

Has a scope review been performed with the Low Bidder:      yes [ ]      no [ ]  
If no, explain :

Was this Bidder prequalified with the Construction Manager :      yes [ ]      no [ ]  
If no, explain :

**Construction Manager's Recommendation**  
Construction Manager for the referenced project, recommends to the Owner the award of the referenced trade contract to the firm indicated.

**Architect / Engineer Review**  
Architect/Engineer for the referenced project has reviewed the recommended bidder's package for compliance with the contract documents

**Summary :**

Bid Package GMP. Budget :	\$0.00
Amount of Award :	\$0.00
Variance from GMP Budget :	\$0.00

**Variance Funding Source: Not Applicable.**

[ ] Construction Manager's Contingency  
[ ] Change Order  
[ ] Other : Savings to CM Contingency

**Approval of Request :**  
By signature below, we hereby certify that we have reviewed the above information regarding this bid package and authorize the Construction Manager to proceed with the following contracting means for the scope of this bid package.

[ ] Execution of Trade Contract with low bidder above.  
[ ] Negotiations with Trade Contractor indicated above  
[ ] Self Performance of the Work

Recommended by: \_\_\_\_\_ Date \_\_\_\_\_  
*Construction Manager*

Reviewed by \_\_\_\_\_ Date \_\_\_\_\_  
*Architect/Engineer*

Approved by: \_\_\_\_\_ Date \_\_\_\_\_  
*Florida State University*