



7380 Murrell Road, Suite 201 | Viera, Florida 32940

P: 321.242.1200 | F: 321.253.1800 | **VIERA**.com

January 25, 2023

VIA ELECTRONIC MAIL AND HAND DELIVERY

Mr. Tad Calkins, Director
Brevard County Planning & Development Services
2725 Judge Fran Jamieson Way
Building A – Room 114
Viera, Florida 32940

Re: Brevard County Fire Station 49 – Donation and Capital Contribution Reimbursement Agreement for Fire Station 49 between The Viera Company (“TVC”) and Brevard County (the “County”) dated as of July 19, 2022 (the “County Agreement”):
Proposed Amendment Approving Signed Construction Agreements and Final Construction Plans

Dear Mr. Calkins:

As provided in the above-referenced Agreement, TVC and W+J Construction Corp. (“Design-Builder”) entered into the form of Design-Build Agreement approved under the Agreement and thereafter the Design-Builder submitted its proposal and final construction plans, which TVC has approved. Upon such approval, TVC and Design-Builder entered into the Design-Build Amendment setting the “Contract Sum” and cost “Risk Items” which are subject to adjustment based on the Design-Builder’s actual cost. Paragraph 7 of the County Agreement contemplates that upon the County’s approval of the executed Design-Build Agreement and Design-Build Amendment, together with the final construction plans, the County Agreement will be amended to memorialize the County’s approval and attach the approved Design-Build Agreement and the Design-Build Amendment.

Accordingly, enclosed for review and approval by the County are the following documents:

1. Proposed Amendment to the County Agreement acknowledging the County’s approval of the signed Design-Build Agreement, the signed Design-Build Amendment and the final construction plans, together with the following Exhibits;
2. Exhibit 1 to Amendment - Fully executed Design-Build Agreement and a prior Amendment (extending the Design-Builder’s deadline for submitting the its proposal and final plans to January 20, 2023);
3. Exhibit 2 to Amendment - Fully executed Design-Build Amendment setting the “Contract Sum” for constructing Fire Station 49 at \$4,092,406.00, the “Contract Time” at 1 year from receipt of building permit and notice to proceed; and

Mr. Tad Calkins
January 25, 2023
Page 2

4. Exhibit 3 to Amendment – the sheet list table of each plan set comprising the “Final Construction Plans” (as described in the Amendment) for Fire Station 49, together with a USB flash drive containing a complete electronic copy of the Final Construction Plans for Fire Station 49.

With respect to the signed Design-Build Agreement and the signed Design-Build Amendment – no changes were made to the forms approved under the County Agreement; however, relevant “blanks” appearing in the approved forms were completed in the signed versions.

TVC requests that the County approve the enclosed Amendment and exhibits as contemplated under the County Agreement and that such approval be considered by the Brevard County Board of County Commissioners at its February 21, 2023 meeting.

If the County has any questions or requires additional information, please do not hesitate to let me know.

Sincerely,

THE VIERA COMPANY



Jay A. Decator III, General Counsel

JAD
Encls.

Cc: Mr. Jeffrey Ball, AICP (via email with attachments excluding flash drive)
Mr. Erik Costin (via email with attachments excluding flash drive)
Todd J. Pokrywa (via email with attachments excluding flash drive)
Michael L. Arnold, P.E. (via email with attachments excluding flash drive)
Mary Ellen McKibben (via email with attachments excluding flash drive)

AMENDMENT TO DONATION AND CAPITAL CONTRIBUTION REIMBURSEMENT
AGREEMENT FOR FIRE STATION 49

THIS AMENDMENT TO DONATION AND CAPITAL CONTRIBUTION REIMBURSEMENT AGREEMENT FOR FIRE STATION 49 (hereinafter referred to as the "**Amendment**") is made and entered into by and between THE VIERA COMPANY, a Florida corporation (hereinafter referred to as "**TVC**"), and BREVARD COUNTY, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "**County**").

RECITALS:

A. TVC and the County entered into that certain Donation and Capital Contribution Reimbursement Agreement for Fire Station 49 which was approved by the Brevard County Board of County Commissioners on July 19, 2022 (hereinafter referred to as the "**Agreement**"), providing for TVC's construction and equipping of "Fire Station 49" and its conveyance to the County in accordance with "Condition 101" of the "Current Development Order" (as such terms are defined therein).

B. Pursuant to the Agreement, TVC as "Owner" and W+J Construction Corp. as "Design-Builder" thereafter entered into the "FS 49 Construction Contract" (as defined in the Agreement), the approved form and content of which was attached to the Agreement as Exhibit "D" and the fully executed FS 49 Construction Contract (including that certain Amendment to Standard Form of Agreement between Owner and Design-Builder dated as of December 9, 2022), being attached hereto as Exhibit 1 and made a part hereof.

C. The FS 49 Construction Contract is a "design-build" agreement contemplating that TVC and Design-Builder would subsequently amend the FS 49 Construction Contract upon the completion of the final construction plans for Fire Station 49 and the parties agreeing upon the contract sum to construct such improvements and the permissible adjustments to the contract sum due to price fluctuations for certain materials and labor.

D. TVC and Design-Builder, having completed the final construction plans for Fire Station 49 and agreed upon the contract sum to construct such improvements and the permissible adjustments to the contract sum due to price fluctuations for certain materials and labor, entered into that certain Design-Build Amendment dated as of January 24, 2023 (hereinafter referred to as the "**Design-Build Amendment**"); a copy of the fully executed Design-Build Amendment being attached hereto as Exhibit "2".

E. Pursuant to paragraph 7 of the Agreement, TVC has submitted the fully executed FS 49 Construction Contract, as amended by the Design-Build Amendment setting forth the contract sum to construct Fire Station 49, together with the final construction plans and specifications for Fire Station 49, to the County for review and approval. The final construction plans and specifications for Fire Station 49 as referenced in the preceding sentence being more particularly described as follows (the "**Final Construction Plans**");

1. Brevard County Fire Station 49 Construction Plans (civil plans) prepared by B.S.E. Consultants, Inc., dated August 25, 2022, Sheets 1 through 22, inclusive, together with boundary and topographic survey, dimension floor plan (1 sheet), landscape plans (3 sheets), site irrigation plans (2 sheets) and photometrics (5 sheets);
2. New Fire Station #49 Construction Documents for Permit prepared by Architects RZK, Inc., last dated January 3, 2023, consisting of 34 sheets; and
3. New Fire Station #49 Engineering Plans prepared by TLC Engineering Solutions, last dated January 3, 2023, consisting of 48 sheets of notes, details and specifications for Structural, Plumbing, Mechanical, Fire Protection, Fire Alarm and Electrical.

The cover sheet for each plan set is attached hereto as Exhibit 3 and made a part hereof.

F. Upon completing its review, the County desires to memorialize its approval of the fully executed FS 49 Construction Contract, the Design-Build Amendment, the "Contract Sum" (as defined in the FS 49 Construction Contract and set forth in the Design-Build Amendment), and the Final Construction Plans for the limited purposes described in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged by the parties hereto, TVC and the County hereby agree as follows:

1. Recitals and Definitions. The above Recitals are true and correct and incorporated herein by reference. All capitalized terms not otherwise defined herein shall have the same meaning herein as in the Agreement.

2. Approval of the Executed FS 49 Construction Contract, the Design-Build Amendment and the Final Construction Plans. Pursuant to paragraph 7 of the Agreement, the County hereby acknowledges its approval of the fully executed FS 49 Construction Contract, the Design-Build Amendment, the "Contract Sum" (as defined in the FS 49 Construction Contract) and the Final Construction Plans. All references in the Agreement to the "FS 49 Plans" shall hereafter mean and refer to the Final Construction Plans as described in this Amendment.

3. Modification of Exhibit "D" of the Agreement. Exhibit "D" of the Agreement setting forth the form and content of the Design-Build Agreement is deleted in its entirety and the fully executed Design-Build Agreement attached hereto as Exhibit "1" and the fully executed Design-Build Amendment attached hereto as Exhibit "2" is substituted in lieu thereof. All references in the Agreement to the FS 49 Construction Contract or Exhibit "D" shall hereafter mean and refer to Exhibit "D" as modified by this Amendment.

4. Operation and Effect of this Amendment. This Amendment is incorporated into the Agreement. All terms and provisions of the Agreement, as modified by this Amendment, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names as of the day and year indicated below.

ATTEST:
WITNESSES

Jay A. DeStor III
Print Name: Jay A. DeStor III

Charlene R. Spangler
Print Name: Charlene R. Spangler

TVC:

THE VIERA COMPANY, a Florida Corporation

Todd J. Pokrywa
Todd J. Pokrywa, President

(CORPORATE SEAL)

Date: February 14, 2023



ATTEST:

COUNTY:
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Clerk to the Board of County Commissioners

Rita Pritchett, Chair

As approved by the Board on
February ____, 2023

EXHIBIT "1"

FULLY EXECUTED FS 49 CONSTRUCTION CONTRACT

AMENDMENT TO STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND DESIGN-BUILDER

THIS AMENDMENT TO STANDARD FORM OF AGREEMENT BETWEEN THE VIERA COMPANY AS "OWNER" AND W+J CONSTRUCTION CORP. AS "DESIGN-BUILDER" (this "Amendment") is made effective as of the 9th day of December, 2022.

RECITALS:

A. Owner and Design-Builder entered into that certain Standard Form of Agreement between Owner and Design-Builder as of August 4, 2022 (the "Agreement"), pertaining to the construction of Viera Fire Station No. 49.

B. Owner and Design-Builder desire to amend and modify the Agreement as expressly provided herein.

NOW THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Design-Builder agree as follows:

1. Recitals and Definitions. The above Recitals are true and correct, and are incorporated herein by reference. All capitalized terms not otherwise defined herein shall have the same meaning as in the Agreement.

2. Extension of the Time to Deliver the Design-Builder's Proposal. Section 1.1.7.2 of the Agreement is amended to extend the date for Design-Builder to submit the Design-Builder's Proposal from December 9, 2022 to January 20, 2023.

4. Operation and Effect of this Amendment. This Amendment is incorporated into the Agreement. All terms and provisions of the Agreement, as modified by this Amendment, remain in full force and effect. In the event of a conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall govern and control.

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Facsimile or electronically transmitted copies of this Amendment and the signatures thereon shall be treated as and have the same binding effect as original documents and signatures thereon.

This Amendment to the Agreement is entered into as of the day and year first written above.

OWNER:

THE VIERA COMPANY, a Florida
corporation

By: 

Todd J. Pokrywa, President

DESIGN-BUILDER:

W+J CONSTRUCTION CORP., a
Florida corporation

By: 

Erik Costin, Vice President

AIA® Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the ^{4th} ~~26~~ day of ^{August} ~~July~~ in the year 2022
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

The Viera Company
7380 Murrell Road, Suite 201
Viera, FL 32940

and the Design-Builder:

(Name, legal status, address and other information)

W+J Construction Corp.
1005 Viera Blvd, Suite 202
Rockledge, FL 32955

for the following Project:

(Name, location and detailed description)

Viera Fire Station No. 49
Address TBD
Located in SW Quadrant of Pineda Blvd/Lake Andrew Drive

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.

TABLE OF ARTICLES

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- 3 SITE IMPROVEMENTS BY OWNER
- A DESIGN-BUILD AMENDMENT
- B INSURANCE AND BONDS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

Init.

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User Notes:

(1247368025)

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

The design program shall be developed by consultations between the Design-Builder, the Owner and the Brevard County Fire Rescue Department in conformance with the Owner's Criteria based on existing Fire Station #48. The design program shall optimize construction efficiency and economy with occupancy scheduled not later than

~~12-31-23.~~ the substantial completion date set forth in the Design-Build Amendment.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

See Preliminary Elevation and Floor Plan based on Fire Station #48 attached as Exhibit I (Owner's design requirements).

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See Sketch, Legal Description and Contours of Site attached as Exhibit 2; and Site Improvements by Owner attached as Exhibit 3.

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

N/A

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

N/A

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

Unknown at time of execution.

§ 1.1.7 The Owner's design and construction milestone dates:

- .1 Design phase milestone dates: Final Construction Plans – November 10, 2022.
- .2 Submission of Design-Builder's Proposal (with Stipulated Sum subject to price increase for "Risk Items" identified pursuant to the Rider attached to this Agreement): December 9, 2022.
- .3 Phased completion dates: To be determined.

Init.

.4 Substantial Completion date: TBD

.5 Other milestone dates:

None

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

(List name, legal status, address and other information.)

.1 Architect

Architects RZK, Inc.
600 Florida Avenue, Suite 101
Cocoa, FL 32922

.2 Consultants

Mechanical, Electrical, Plumbing and Structural Engineer (Engineer)

TLC Engineering Solutions
7370 Cabot Ct. Suite 103
Melbourne, FL 32940

.3 Contractors

N/A

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:

(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

None

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:

(List name, address and other information.)

Init.

Michael L. Arnold, P.E., Vice President of Land Development
Mary Ellen McKibben, Director Land Development

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

None

§ 1.2.3 The Owner will retain the following consultants and separate contractors:

(List discipline, scope of work, and, if known, identify by name and address.)

Hassan Kamal, P.E., B.S.E Consultants, Inc., 312 South Harbor City Boulevard, Suite 4, Melbourne, FL 32901 – Owner's consulting engineer and surveyor.

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Erik Costin, Vice President
W&J Construction Corporation
1005 Viera Blvd, Suite 202
Rockledge, FL 32955
321.632.7660 / 321.403.3048 (M)
erik@wjconstruction.com

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- ☐ Arbitration pursuant to Section 14.4
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: (Specify)

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement, including without limitation the Rider attached to the Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either

Init.

written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder; and Brevard County as a third-party beneficiary of the Contract as provided in the Rider attached to this Agreement.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors. The Owner's portion of the Work is limited to the Site Improvements described on attached Exhibit 3. All other portions of the Work shall be the responsibility of the Design-Builder.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

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

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

The Work prior to the Design-Build Amendment shall consist of (i) formulating the design program by consulting with the Owner and representatives of the Brevard County Fire Rescue Department, (ii) preparing the final construction drawings and specifications for the Project consistent with the Owner's Criteria and (iii) preparing the Design-Builder's Proposal and presenting it to the Owner (which proposal shall include the final construction drawings and Contract Sum for completing the Work). The Preliminary Elevation and Floor Plan attached to this Agreement as Exhibit I shall be considered the "Preliminary Plan" under this Agreement and the Owner's execution of this Agreement shall be deemed the Owner's written authorization to prepare the Design-Builder's Proposal pursuant to Section 4.4.1 (as revised). The Design-Builder shall be compensated for such work by payment of a fixed fee in the amount of \$107,491.00; payable to Design-Builder as provided in Section 2.1.4.1. Notwithstanding any contrary provisions of this Agreement, the foregoing fixed-fee represents the total compensation payable to the Design-Builder for all portions of the Work performed prior to the Design-Build Amendment; and such fixed fee is intended to compensate the Design-Builder and the Design-Builder's Architect, Consultants and Contractors engaged by the Design-Builder in performing such Work. Other than paying such fixed fee and the associated reimbursable expenses to the Design-Builder, the Owner shall not be responsible for any additional payments or other compensation due or payable to the Design-Builder's Architect, Consultants and Contractors for that portion of the Work performed prior to the execution of the Design-Build Amendment.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Individual or Position

Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and include expenses, directly related to the Project, incurred by the Design-Builder as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 All taxes levied on professional services and on reimbursable expenses; and
- .9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of zero percent (0.00 %) of the expenses incurred.

Init.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice as each payment milestone pertaining to the Design-Builder's Proposal is achieved. Such pre-Design-Build Amendment payment milestones and the schedule for achieving same, are described on attached Exhibit 4. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

(Paragraph deleted)

(legal rate then prevailing)

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

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§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period (including the cumulative percentage of the Work completed through the report date);
- .2 Project schedule status including confirmation whether or not the Work is on schedule, if not, a revised Project schedule and the projected portion of the Work to be completed in the next succeeding month;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of increases in the Contract Sum due to price increases of "Risk Items" as defined in the Rider attached to this Agreement, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports: N/A

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build 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 Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

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§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 **Warranty.** The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 **Royalties, Patents and Copyrights**

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants 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 Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 **Indemnification**

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, 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, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

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§ 3.1.14.3 The Design-Builder shall also indemnify and hold harmless the Owner against claims for construction liens by the Architect, any Consultant, any Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, and by others for services, labor, materials or equipment; and against any assertion of security interests by suppliers of goods or materials; subject to the Owner's timely payment of all progress payments and the final payment in accordance with the terms and conditions of the Contract.

§ 3.1.14.4 Survival

Sections 3.1.12, 3.1.13 and 3.1.14 and all subsections thereof shall survive the completion of the Work and the expiration or sooner termination of the Contract and remain in full force and effect thereafter.

§ 3.1.15 Contingent Assignment of Agreements

- § 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that
- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
 - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement. Provided, however, that in no event shall the Owner's assumption of the Design-Builder's rights and obligations under any assigned agreement operate to waive or release the Design-Builder from any of its obligations to the Owner under the Contract except to the extent otherwise agreed by the Owner in writing.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

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§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

Probable "Risk Items" which may be subject to price increases and affect the Contract Sum as described in the Rider attached to this Agreement.

§ 4.2.3 N/A.

§ 4.3 Preliminary Design

§ 4.3.1

(Paragraphs deleted)

The Preliminary Elevation and Floor Plan attached to this Agreement as Exhibit I comprise the Owner's design requirements for the Project, which elevation and floor plans shall be deemed to be the Preliminary Design.

§ 4.3.2 Upon the full execution of this Agreement, the Design-Builder shall be authorized to proceed to develop the Design-Builder's Proposal.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's and Design-Builder's execution of this Agreement, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 The Construction Documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, which shall be based on the "stipulated sum" compensation method, subject to adjustment based on possible cost increases of certain designated "Risk Items" in accordance with the Rider attached to this Agreement;
- .3 The "Risk Items" and associated cost thresholds which may require an adjustment of the Contract Sum if the Design-Builder's cost for any such item increases above the applicable threshold as evidenced by receipted invoices or invoices with check vouchers attached as more particularly described in the Rider attached to this Agreement.
- .4 The proposed date the Design-Builder shall achieve Substantial Completion;
- .5 An enumeration of any qualifications and exclusions, if applicable;
- .6 A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .7 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

(Paragraphs deleted)

The Owner shall either agree to the Design-Builder's Proposal, agree to the Design-Build Proposal subject to specific revisions requested by the Owner and/or Brevard County or reject the Design-Builder Proposal. If the Owner rejects the Design-Builder Proposal or the Owner and the Design-Builder fail to agree on the Design-Builder Proposal within sixty (60) days after its initial submittal, this Agreement shall terminate upon written notice of such termination from either party to the other, except and excluding those sections pertaining to Work performed by the Design-Builder prior to submittal of the Design-Builder Proposal, which sections shall survive such termination including, without limitation, Article 2 of this Agreement pertaining to payment of the Design-Builder for Work performed prior to

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execution of the Design-Build Amendment. Provided, however, that if the Design-Builder Proposal is not agreeable to the Owner and this Agreement is terminated as provided in the preceding sentence, the Owner shall not be responsible for any amount or sum payable to the Design-Builder, the Architect, Consultant or any Contractor other than the fixed-fee and the reimbursable expenses payable to the Design-Builder under Sections 2.1.1 and 2.1.3.1, respectively, of this Agreement. Any contrary provision of the Design-Build Documents notwithstanding, so long as the Owner has paid the fixed-fee and the reimbursable expenses payable to the Design-Builder under Sections 2.1.1 and 2.1.3.1, respectively, of this Agreement, upon the termination of this Agreement pursuant to this Section 4.4.3, the Owner and Brevard County shall each receive and retain the irrevocable non-exclusive license to use the Instruments of Service, including without limitation the Construction Documents, to construct, maintain, alter or add to the Project as expressly provided in Section 12.3.1.

§ 4.4.4 The Construction Documents shall include final construction drawings and specifications and establish the quality levels of materials and systems required. The Construction Documents shall include a site plan, building plans, sections and elevations and plans for structural, mechanical, electrical and plumbing systems; all of which shall be consistent with the Design-Build Documents. The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 N/A

§ 5.2 Construction

§ 5.2.1 Commencement. Construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 DELETED

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder 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 the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder 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.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 The Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 10 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder'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 but not in the allowances; and
- .3 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 Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner 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 Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed 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 Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder 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 Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 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 terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 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 Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder 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 Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, 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, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by 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 or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

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

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, 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 Unit prices stated in the Design-Build 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; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's

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compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

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

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. 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.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder 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.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys

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describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of 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; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder 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 Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-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, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by

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the Owner; or by industry wide strikes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents. The foregoing sentence providing for the recovery of damages for the Design-Builder's delay shall in no manner affect Owner's right to terminate this Agreement in accordance with this Agreement for uncured delay and, Owner's exercise of its right of termination in such event, shall not release the Design-Builder from the obligation to pay damages incurred by the Owner

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder'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 Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay. Applications for Payment shall contain a certification by the Design-Builder that all due and payable bills with respect to the Work included in the Application for Payment have either been paid to date or shall be paid from the proceeds of the applicable Application for Payment

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as 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 Design-Builder 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 the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder 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 be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

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§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, 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 a separate 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 repeated failure to carry out the Work in accordance with the Design-Build Documents.

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

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors

to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 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 Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, 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 Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents. Whether the Design-Builder is without fault with respect to any Certificate of Payment withheld by the Owner shall be determined by the Architect, and the Design-Builder shall have the right to stop the Work pursuant to this Section 9.7 only if the Architect determines that the Design-Builder is without fault. Otherwise, notwithstanding the Design-Builder's disputing the Owner's determination to withhold a Certificate of Payment in whole or in part, the Design-Builder shall nevertheless expeditiously and diligently continue to prosecute the Work. Notwithstanding any contrary provision of this Agreement, the Owner shall not be deemed to be in breach of this Agreement by reason of the withholding of any payment where the Design-Builder is at fault or the Work for which payment is being withheld has been rejected by the Owner or by any governmental authority or fails to conform to the Design-Build Documents.

§ 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 Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8. Notwithstanding any other provision of this Agreement, in no event shall the date of Substantial Completion be certified by the Owner prior to the date on which Brevard County issues a Certificate of Occupancy for the Project.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner and Brevard County shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's/Brevard County's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner and Brevard County to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, as determined by the Owner and Brevard County, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Notwithstanding any provision hereof to the contrary, the issuance of a Certificate of Occupancy by Brevard County for the Project shall be a condition precedent to the Owner's issuance of a Certificate of Completion. Warranties required by the Design-Build 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 Design-Builder shall obtain, deliver and assign to the Owner's designee (Brevard County) all warranties required by the Design-Build Documents bearing the date of Substantial Completion or some later date as may be agreed to by the Design-Builder and stating the duration of the warranty. The type and duration of such warranties shall be in accordance with the Design-Build Documents.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate.

§ 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 Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder 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 Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder 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 Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder 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 Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner and Brevard County will promptly make such inspection and, within fifteen (15) days thereafter, prepare a list of all remaining items of the Work to be completed, corrected or repaired and fix the time within which the Design-Builder shall complete, correct or repair the items on such list. Upon the completion, correction or repair of such items and the Owner and Brevard County then finding the Work complete and acceptable under the Design-Build Documents and the Contract fully performed as evidenced in writing, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor the retainage applicable to the Work shall become due until the Design-Builder submits to the Owner (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 Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record

copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner and Brevard County against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances become known after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees or promptly transfer such lien to other security in accordance with the Florida Statutes, as applicable.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, 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 Design-Build 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 Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment.

§ 9.10.4 The making of final payment shall not constitute a waiver of Claims by the
(Paragraphs deleted)
Owner.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

§ 9.10.6 Notwithstanding any contrary provision hereof, as a condition precedent to receiving any payment due the Design-Builder under the Contract, including all progress payments and final payment, the Design-Builder shall provide the Owner with such lien waivers, releases of lien and lien affidavits as the Owner may reasonably require in connection with each of Design-Builder's Applications for Payment pursuant to the requirements of Chapter 713, Florida Statutes, including but not limited to, a release of lien from the Design-Builder, the Architect, Consultants, Contractors and others providing services, labor, materials or equipment under the Design-Builder for that portion of the Work covered by the applicable payment request and a Progress Payment Affidavit and Final Payment Affidavit by the Design-Builder, as applicable, complying with the requirements of Chapter 713, Florida Statutes. Payment by the Owner in accordance with an Application for Payment shall not constitute approval or acceptance of that portion of the Work covered by such Application for Payment

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and 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 Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

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§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and 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 Design-Builder shall implement, 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 notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 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 Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 **Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 10 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents and all applicable governmental laws and regulations regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

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§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, 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 or substance presents the risk of bodily injury or death as described in Section 10.3.1 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), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles or fails to comply with applicable governmental laws and regulations regarding the storage and use of such materials or substances, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time 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 and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, 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 Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner or Brevard County to do so unless the Owner has given the Design-Builder a written acceptance of such condition prior to Substantial Completion or Brevard County has given such written acceptance after Substantial Completion. The Owner or Brevard County

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shall give such notice promptly after discovery of the condition. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work 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 completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations under the Contract other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build 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.

§ 11.4 Survival

This Article 11 and all sections and subsections thereof shall survive the completion of the Work and the expiration or sooner termination of the Contract and remain in full force and effect thereafter.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner and Brevard County a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner and Brevard County to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or

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construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also grant to the Owner and Brevard County, in the event (1) this Agreement is terminated for any reason other than the default of the Owner (including, but not limited to, termination by the Owner pursuant to Section 13.1.5), or (2) the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, a limited, irrevocable and non-exclusive royalty free license to use and reproduce all Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) has paid the fixed-fee and the reimbursable expenses payable to the Design-Builder under Sections 2.1.1 and 2.1.3 for work performed prior to execution of the Design-Build Amendment, and (2) the Owner or Brevard County, as applicable, each provide the Architect, Consultant or Contractor with its written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such claims or causes of action arise from the indemnitor's alteration or wrongful use of the Instruments of Service. The license granted under this section permits the Owner and Brevard County to authorize their respective consultants and separate contractors to reproduce and use applicable portions of the Instruments of Service solely and exclusively in connection with constructing, using, maintaining, altering and/or adding to the Project.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service in a manner other than as authorized under this Agreement, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such claims and causes of action arise from the Owner's alteration or wrongful use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

§ 12.3.3 The terms and provisions of this Article 12 and all subsections thereof shall survive the termination of this Agreement and continue in full force and effect thereafter.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed in accordance with the requirements of the Design-Build Documents prior to notice of such suspension. Excluding suspensions of the Project by the Owner due to the fault of the Design-Builder, when the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work and the Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

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§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause. Without limiting the preceding sentence, the Owner may terminate this Agreement if the Owner rejects the Design-Builder Proposal pursuant to Section 4.4.3.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 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.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Design-Builder's Proposal by the date required by this Agreement;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of breaching a material provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. 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 Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, 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 Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of

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the Work. Notwithstanding any provision of this Section to the contrary, no applicable statute of limitations shall be deemed to have commenced with respect to any portion of the Work which is not in accordance with the requirements of the Design-Build Documents and is not visible or apparent upon conducting a reasonable inspection of the Work, until discovered by the Owner.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, except as provided in Section 14.2.2.1 and in the Rider attached to this Agreement, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party 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.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by written notice to the other party within 60 days after the claimant first recognizes the condition giving rise to the Claim. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim, including incurring any increase or decrease in the Contract Sum due to a price increase for a "Risk Item" as described in the Rider attached to this Agreement. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder'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.

§ 14.1.6.2 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, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-BUILDER shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-BUILDER's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-BUILDER. If the Design-BUILDER initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-BUILDER to provide a response to a Claim or to furnish additional supporting data, the Design-BUILDER shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution as provided in Section 1.3.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision as provided in Section 1.3.

§ 14.2.7 In the event of a Claim against the Design-BUILDER, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-BUILDER's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution in accordance with Section 1.3.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings in accordance with Section 1.3 but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

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§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration

(Paragraphs deleted)

N/A. Notwithstanding any contrary provisions of the Contract, if any Claim, dispute, breach or default should arise under or in connection with the Design-Build Documents, arbitration shall not be a condition precedent to the right of either party to seek such recourse as may be available to it under the Contract or the laws of the State of Florida, it being the intention of the parties that arbitration shall only be required between the parties when they both consent to arbitration of any Claim which may arise. In the event of litigation arising, either directly or indirectly, out of the Contract, the prevailing party shall be entitled to recover all reasonable costs and expenses of such litigation or arbitration, including reasonable attorneys' fees and costs, mediators fees and costs and other legal costs and expenses, whether incurred at or before mediation or trial or in any appellate or bankruptcy proceedings. IN THE EVENT OF ANY LITIGATION ARISING FROM THIS AGREEMENT OR ANY OF THE OTHER DESIGN-BUILD DOCUMENTS, OR THAT PERTAINS TO THE SUBJECT MATTER OF THE CONTRACT, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, BREACH OF WARRANTY, MISREPRESENTATION, VIOLATIONS OF STATUTES, CODES, RULES, OTHER TORTUOUS CONDUCT OR CLAIMS OF ANY NATURE OR DESCRIPTION, THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY FOR ANY SUCH LITIGATION INCLUDING CLAIMS AND COUNTERCLAIMS. Exclusive venue for any litigation or mediation arising or any of the Design-Build Documents shall be in Brevard County, Florida.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, 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.

§ 15.2.2 The Design-Builder acknowledges and expressly agrees that the Owner may elect to assign the Contract in whole or in part to Brevard County. In addition, the Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall promptly execute all consents reasonably required to facilitate such assignments, as applicable.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to Brevard County or a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to 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

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certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build 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.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder 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.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder 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 Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build 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.

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

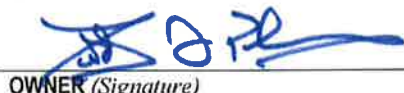
ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™-2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:
- .6 Other:
 - Exhibit 1 attached to this Agreement – Preliminary Elevation and Floor Plan
 - Exhibit 2 attached to this Agreement – Sketch, Legal Description and Contours of Site
 - Exhibit 3 attached to this Agreement – Site Improvements by Owner
 - Exhibit 4 attached to this Agreement – Pre-Design-Build Amendment Payment Milestones
 - The Rider attached to this Agreement

This Agreement entered into as of the day and year first written above.

THE VIERA COMPANY



OWNER (Signature)

Todd J. Pokrywa, President
(Printed name and title)

W+J CONSTRUCTION CORP.



DESIGN-BUILDER (Signature)

Erik Costin, Vice President
(Printed name and title)

RIDER TO STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND DESIGN-BUILDER

THIS RIDER is attached to and incorporated by this reference into that certain Standard Form of Agreement between Owner and Design-Builder, AIA Document A141 - 2014 (the "**Agreement**") made and entered into by and between W+J CONSTRUCTION CORP., a Florida corporation (the "**Design-Builder**") and THE VIERA COMPANY, a Florida corporation (the "**Owner**"), dated as of August 4, 2022, for the purpose of modifying the Agreement as hereafter expressly provided. All capitalized terms used in this Rider shall have the same meaning herein as in the Agreement, unless otherwise provided below.

1. **Limited Adjustment of the Contract Sum for Risk Items.** The Design-Builder's Proposal shall be delivered to Owner in accordance with Section 4.4 of the Agreement and, without limiting the foregoing, shall include the proposed Contract Sum which shall only be subject to adjustment subsequent to execution of the Design-Build Amendment as hereafter provided. As part of the Contract Sum provided in the Design-Builder's Proposal, the Design-Builder shall include and describe those specific portions of the Work, materials, fixtures and equipment which the Design-Builder anticipates will be subject to extraordinary price fluctuations after the execution of the Design-Build Amendment (collectively the "**Risk Items**"), which price instability shall justify an increase or decrease in the Contract Sum as hereafter provided. The Design-Builder's Proposal shall also include the then current price of each Risk Item upon which the Contract Sum was calculated (the "**Base Price**"). After execution of the Design-Build Amendment, if the price or cost actually incurred by the Design-Builder for any Risk Item which is incorporated into the Work either increases or decreases with respect to the applicable Base Price, then the Contract Sum shall be adjusted to reflect such increase or decrease for the subject Risk Item (the "**Risk Item Adjustment**"); provided, however, that the Contract Sum shall be subject to a maximum adjustment for an increase above the Base Price for any applicable Risk Item up to, but not exceeding, an amount equal to ten percent (10.00%) of the Base Price for such Risk Item. By way of example and not limitation, if the Base Price of Risk Item X is \$10,000 and the Design-Builder's actual price paid for Risk Item X at the time it is acquired is \$12,000, the applicable Risk Item Adjustment (and the resultant increase in the Contract Sum) is limited to \$1,000.

(a) **Processing a Risk Item Adjustment.** If a Risk Item Adjustment becomes necessary with respect to any Risk Item, the Design-Builder shall make a Claim for an increase or decrease in the Contract Sum due to the applicable Risk Item Adjustment by providing prior written notice of such adjustment to the Owner pursuant to Section 14.1.5 of the Agreement, which notice shall include data supporting the requested adjustment. Upon the Owner's receipt and approval of such notice, the Owner and the Design-Builder shall promptly execute a Change Order adjusting the Contract Sum in accordance with the applicable Risk Item Adjustment. Thereafter, as part of the Application for Payment including such Change Order, the Design-Builder shall submit a receipted invoice or an invoice with a check voucher attached, and any other evidence reasonably requested by the Owner, to verify the Risk Item Adjustment which was the subject of the Change Order. To the extent that a Risk Item Adjustment is the subject of a Change Order, the applicable Application for Payment shall be prepared based on the Contract Sum recalculated to include the reported Risk Item Adjustment. Each Application for Payment including a Risk Item Adjustment and containing an adjusted Contract Sum as a result thereof shall be prepared by Design-Builder in such form and supported by such data to substantiate its accuracy as the Owner may require. With respect to each Claim by the Design-Builder for an adjustment in the Contract

Sum due to a Risk Item Adjustment, the Owner shall respond to such Claim within five (5) business days in accordance with Section 14.2.2.2 of the Agreement.

(b) Incorporation of the Risk Items and Base Price into the Design-Build

Amendment. Upon submittal of the Risk Items and the applicable Base Price for each Risk Item set forth in the Design-Builder's Proposal and the acceptance and approval of the Design-Builder's Proposal, the approved Risk Items and applicable Base Price shall be attached to, and made a part of, the Design-Build Amendment as Exhibit "A1".

2. Brevard County as a Third-Party Beneficiary of the Contract; Assignment of the Contract to Brevard County. Brevard County shall be a third party beneficiary under the Contract. Without limiting the generality of the preceding sentence: (i) all warranties under the Contract made or accruing to the benefit of the "Owner" thereunder shall also be deemed to have been made to and shall accrue to the benefit of Brevard County and shall be enforceable by Brevard County as if it were the "Owner" under the Contract; (ii) all indemnification obligations of the Design-Builder under the Contract to the Owner shall also be in favor of and benefit Brevard County and shall be enforceable by Brevard County as if it were the "Owner" under the Contract; and (iii) Brevard County shall be legally entitled and have the right, but not the obligation, to enforce all of the Design-Builder's obligations, agreements and covenants under the Contract as if it were the "Owner" under the Contract. In the event Brevard County initiates any Claim under the Contract or commences any legal proceeding or action to enforce its rights as a third party beneficiary or any obligation, agreement or covenant of the Design-Builder under the Contract, each party to such action shall be responsible for paying its own costs and expenses of such action, including its attorneys' fees and costs, notwithstanding which party shall be the predominantly prevailing party in such proceeding or action. This provision shall survive the expiration or termination of the Contract. The Design-Builder acknowledges and understands that the Owner intends to assign all of its rights and remedies under this Agreement (including, but not limited to, all warranties issued to the Owner by the Design-Builder, Architect, Consultants, Contractors, and suppliers in connection with the Contract and/or the Design-Build Documents, the Work and all services, equipment, materials and labor incorporated therein) to Brevard County upon the substantial completion of the Work and the Design-Builder's receipt of the final payment. The Design-Builder hereby consents to and approves such assignment to Brevard County and acknowledges and agrees that Brevard County shall be entitled to enforce such rights, remedies and warranties under the Contract in the same manner and to the same extent as the Owner.

3. Limited Site Improvements Performed by Owner. Pursuant to Section 1.1.3 and Section 5.13 of the Agreement, the Owner shall perform the limited work described in Exhibit 3 attached to the Agreement. The Owner shall complete such limited work prior to the Design-Builder's commencement of work at the Site. The Owner's work shall be limited to those items specifically described on Exhibit 3 and all other portions of the Work shall be the sole and exclusive responsibility of the Design-Builder.

4. Effect of Rider. To the extent the terms and provisions of this Rider conflict with any terms or provisions of the Agreement or with any other Design-Build Document, the terms and provisions of this Rider shall govern and control.

(Intentionally left blank - signatures appear of the following page)

OWNER:

THE VIERA COMPANY, a Florida
corporation

By: 

Todd J. Pokrywa, President

DESIGN-BUILDER:

W+J CONSTRUCTION CORP., a
Florida corporation

By: 

JOINDER BY THE ARCHITECT AND THE ENGINEER

Section 12.1 of the Agreement provides that the drawings, specifications and other documents prepared by the Architect and the Engineer and furnished to the Owner are Instruments of Service. Sections 12.3 and 12.4 of the Agreement provide that the Design-Builder is obligated to obtain limited irrevocable non-exclusive licenses allowing the Owner and the County to use such Instruments of Service as expressly provided therein. The Architect and the Engineer identified in Section 1.1.8 of the Agreement hereby join in the Agreement for the limited purposes of acknowledging and confirming that the Architect and the Engineer have granted such limited irrevocable non-exclusive licenses in accordance with Sections 12.3 and 12.4 of the Agreement and that the Owner and the County are authorized to use the Instruments of Service prepared by the Architect and the Engineer in accordance with such sections; provided, however, that the Owner shall comply with all obligations of the Owner under the Agreement, including the prompt payment of all sums when due thereunder.

ARCHITECTS RZK, INC.

By: 

Name: John C. Zarke

TLC ENGINEERING SOLUTIONS

By: 

Name: Gary Krueger

AIA[®] Document A141[™] – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141[™]-2014, Standard Form of Agreement Between Owner and Design-Builder dated the 4th day of August in the year 2022 (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Viera Fire Station #49

THE OWNER:
(Name, legal status and address)

The Viera Company
7380 Murrell Road, Suite 201
Viera, FL 32940

THE DESIGN-BUILDER:
(Name, legal status and address)

W+J Construction Corp.
1005 Viera Blvd., Suite 202
Rockledge, FL 32955

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

- A.1 CONTRACT SUM
- A.2 CONTRACT TIME
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
- A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

☒ [X] Stipulated Sum, in accordance with Section A.1.2 below

☐ [] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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- [] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be 2014 Design-Build Agreement - AIA - AIA (\$ 2014), subject to authorized adjustments as provided in the Design-Build Documents, including "Risk Item Adjustments" as provided that certain Rider attached to the Agreement. The specific "Risk Items" which justify a Risk Item Adjustment of the Stipulated Sum due to a price increase or price decrease incurred by the Design-Builder are specifically identified in Exhibit A1 attached to this Design-Build Amendment.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ A.1.2.3 Unit prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ A.1.3 Cost of the Work Plus Design-Builder's Fee N/A

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price N/A

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

§ A.1.4.3 Guaranteed Maximum Price N/A

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed (\$), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Insert specific provisions if the Design-Builder is to participate in any savings.)

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price

Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.

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(Provide information below or reference an attachment.)

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)

§ A.1.4.3.4 Unit Prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the 25th day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 10th day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Owner receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 N/A With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to

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have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10.00 %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10.00 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to Ninety Percent (90%) of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.
3. Adjust amounts payable to the Design-Builder for "Risk Item Adjustments" approved by the Owner and included in the applicable Application for Payment; which adjustments shall be calculated in accordance with the Rider attached to the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)N/A

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee N/A

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Article A.5 of this Amendment;
- .2 Add the Design-Builder's Fee, less retainage of percent (%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears

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the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;

- .3 Subtract retainage of percent (%) from that portion of the Work that the Design-Builder self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price N/A

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee, less retainage of percent (%). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of percent (%) from that portion of the Work that the Design-Builder self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to

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correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

(Paragraph deleted)

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than () days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Substantial Completion of the Work shall not occur later than _____.

Portion of Work	Substantial Completion Date
N/A	N/A

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

N/A

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ A.3.1.2 The Specifications:

(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
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§ A.3.1.3 The Drawings:

(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Number	Title	Date
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§ A.3.1.4 The Sustainability Plan, if any: N/A

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing

or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
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Other identifying information:

§ A.3.1.5 Allowances and Contingencies:

(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

.2 Contingencies

§ A.3.1.6 Design-Builder's assumptions and clarifications:

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title and contact information.)

.1 Superintendent

.2 Project Manager

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

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ARTICLE A.5 COST OF THE WORK N/A

§ A.5.1 Cost To Be Reimbursed as Part of the Contract N/A

§ A.5.1.1 Labor Costs N/A

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.

(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate (\$0.00)	Rate (unit of time)
-----------------	------------------------------	---------------	---------------------

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. N/A Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction N/A

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items N/A

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

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§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs N/A

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies N/A

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure

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to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions N/A

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract N/A

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds N/A

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements N/A

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the

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Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

(Paragraphs deleted)

§ A.5.5 Accounting RecordsN/A

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

THE VIERA COMPANY

W+J CONSTRUCTION CORP.

OWNER *(Signature)*

DESIGN-BUILDER *(Signature)*

Todd J. Pokrywa, President

Erik Costin Vice President

(Printed name and title)

(Printed name and title)

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AIA Document A141™ – 2014 Exhibit B

Insurance and Bonds

for the following PROJECT:

(Name and location or address)

Viera Fire Station #49

THE OWNER:

(Name, legal status and address)

The Viera Company
7380 Murrell Road, Suite 201
Viera, FL 32940

THE DESIGN-BUILDER:

(Name, legal status and address)

W+J Construction Corp.
1005 Viera Blvd., Suite 202
Rockledge, FL 32955

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the 4th day of August in the year 2022.

(In words, indicate day, month and year.)

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 DESIGN BUILDER'S INSURANCE AND BONDS**
- B.3 OWNER'S INSURANCE**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:

(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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§ B.2.1.1 Commercial General Liability (CGL) insurance policy written on Insurance Services Office (ISO) Form CG 00 01 10 04 or later edition with policy limits of not less than Two Million Dollars (\$2,000,000.00) for each occurrence and Two Million Dollars (\$ 2,000,000.00) in the aggregate providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury; advertising injury;
- .3 damages because of injury to or destruction of tangible property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement, including, but not limited to, coverage for insured contracts, including tort liability of another assumed by the Design-Builder. The following exclusions or limitation are not allowed:
 - a. Classification or similar endorsement that restricts coverage for any aspect of the Work called for in the Agreement;
 - b. Liability to third parties for injuries to employees;
 - c. Explosion, collapse and underground hazards; and
 - d. Third-party actions over claims.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage. Such insurance policy shall include contractual liability coverage, including, but not limited to, tort liability of another assumed by the Design-Builder. If the Work includes the delivering, hauling or transportation of goods, the Design-Builder will comply with the Motor Carrier Act of 1980 required limits of financial responsibility and the Design-Builder's insurance policy shall include the Motor Carrier Act endorsement MCS-90. If the Work includes hauling hazardous materials, policy shall include Pollution Liability – Broadened Coverage for Covered Autos endorsement ISO CA 99 48 or its equivalent) or such coverage may be provided under an Environmental Liability policy.

§ B.2.1.3 Umbrella/Excess Liability insurance written on an occurrence form with limits of not less than \$5,000,000 per occurrence and in the annual aggregate, excess of, and on terms not more restrictive than underlying CGL, Commercial Automobile Liability, and Employers Liability insurance, and meeting the above stated requirements for such coverages.

§ B.2.1.4 Workers' Compensation insurance as prescribed by the law(s) of the jurisdiction(s) in which the Work is performed at statutory limits. Should Owner lease or borrow any of the Design-Builder's employees to perform Work under this Agreement or if any of the Design-Builder's employees will at any time be working under Owner's direction and/or control, then such insurance policy shall include ISO Alternate Employer endorsement WC 00 03 01 A or an endorsement providing equivalent coverage, including Owner as an alternate employer with respect to Work performed by the Design-Builder's employees under this Agreement. The Design-Builder shall ensure that if any of the Work will involve equipment operators furnished pursuant to equipment lease agreements, employees of independent contractors, sole proprietors or partners, such entities are covered by workers' compensation insurance.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

Employers' Liability insurance with limits of at least One Million Dollars (\$1,000,000.00) for bodily injury by accident, each accident, and bodily injury by disease, each employee and policy limit.

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per claim and Two Million Dollars (\$ 2,000,000.00) in the aggregate. Professional Liability/Errors & Omissions insurance shall be maintained for claims arising out of the Design-Builder's errors, omissions, rendering or failure to render the Work or provision of products under this Agreement with limits of not less than \$1,000,000 per claim and \$2,000,000 in the annual

aggregate. If applicable to the Work, such policy shall include, but not be limited to, coverage for the configuration or operation of computer or data networks. Such policy shall not contain pollution exclusions.

§ B.2.1.7 If the Design-Builder's scope of work under this Agreement may involve handling, transporting, disposing, or performing work or operations with hazardous materials or other contaminants, waste or toxic materials, or any other materials that may result in damage or pollution to natural resources of the environment, Contractor's Pollution Liability (CPL) insurance shall be maintained in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, including, but not limited to, coverage for sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants and include coverage for bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, natural resource damage, clean-up costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, all in connection with loss arising from the Design-Builder's scope of work under this Agreement. Coverage must remain in force for both on-site and off-site exposures and remain in place for a period of not less than 5 years after Substantial Completion and acceptance of the Work.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than Two Million Dollars (\$ 2,000,000.00) per claim and Four Million Dollars (\$ 4,000,000.00) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first. Upon the cancellation or expiration of any insurance required by this Article B.2, the Design-Builder shall put in place a replacement policy or policies providing the required coverages so that there is no interruption of the required coverages. All insurance required under this Article B.2. shall provide "occurrence" based coverages.

§ B.2.1.9 Additional Insured Obligations. The Owner and Brevard County shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement. All required CGL, CAL and Umbrella/Excess Liability policies shall include Owner, Indemnitees, and any other person or entity designated by Owner (Brevard County), as additional insureds on a primary and non-contributory basis over any insurance, deductibles, self-insured retentions and/or self-insurance maintained by the additional insureds for liability arising out of the Work. All such policies shall include severability of interests/separation of insureds provisions and shall not contain any cross-suit liability exclusions for suits brought between insureds. Such additional insured coverage under the CGL and Umbrella/Excess Liability insurance shall be provided using ISO CG 20 10 10 01 and CG 20 37 10 01 forms.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; and (2) upon renewal or replacement of each required policy of insurance. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and Brevard County as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond N/A – No payment or performance surety bonds required. The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

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§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder 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.

§ B.3.2.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice,

and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused.

§ B.3.2.5 DELETED.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, 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 the 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.

§ B.3.2.8 A loss insured under the 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 Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 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 as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 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 a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Init.

The floor plan shows a rectangular building with a central section labeled "WESTSIDE COUNTY FIRE ENGINE 40" and a larger section labeled "WESTSIDE FIRE STATION-13". The plan includes various rooms, corridors, and a north arrow. Dimensions are provided for the overall building and individual sections. Room numbers are indicated in small boxes throughout the plan.

Key features and dimensions include:

- Overall dimensions: 31'-0" (width) x 14'-0" (depth).
- Central section: 14'-0" wide, 11'-4" deep.
- Right section: 11'-4" wide, 11'-4" deep.
- Left section: 11'-4" wide, 11'-4" deep.
- Bottom section: 11'-4" wide, 11'-4" deep.
- Room numbers: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
- North arrow: Located in the upper right corner, pointing towards the top right.

FRONT ELEVATION
1/8" = 1'-0"

ARCHITECTURAL

0 6 16 24

FLOOR PLAN
 ARCHITECTURAL
 8,720 sq. ft.
 4,576 sq. ft. RESIDENTIAL
 4,544 sq. ft. STORAGE

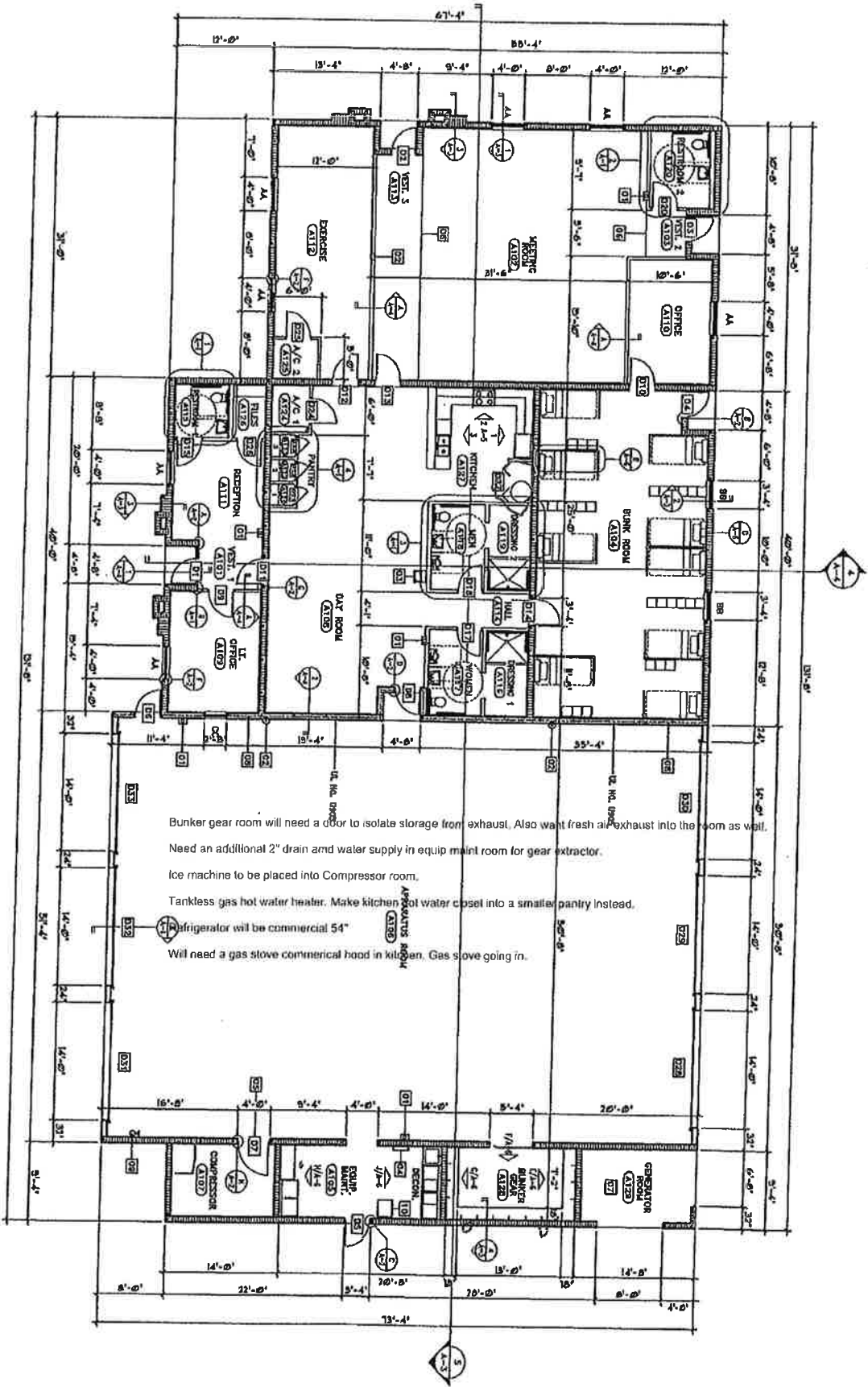


EXHIBIT 2

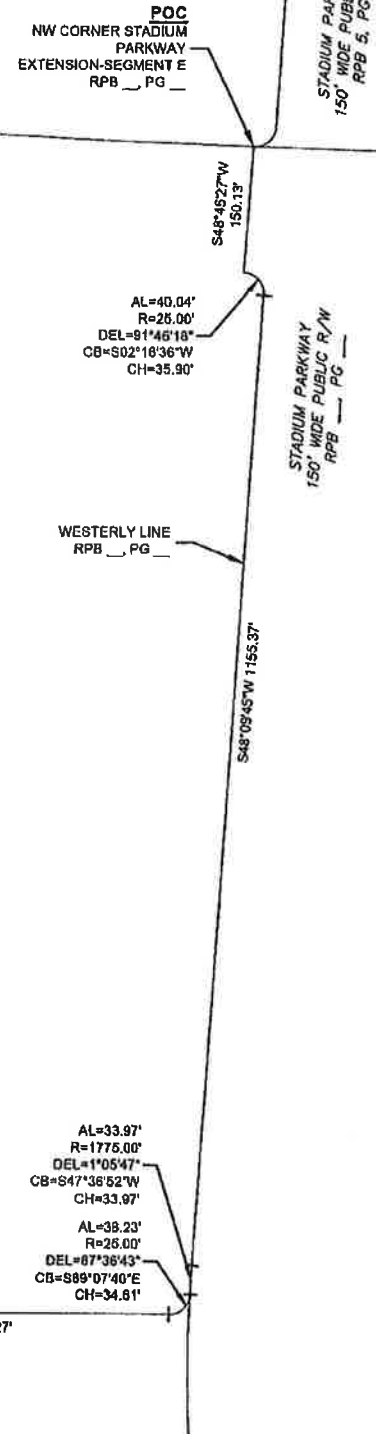
SKETCH, LEGAL DESCRIPTION AND CONTOURS OF SITE

THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE

DESCRIPTION OF FIRE STATION

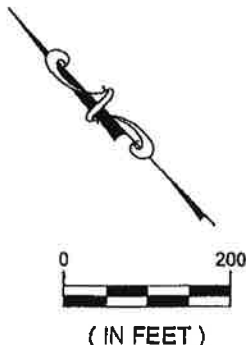
A PARCEL OF LAND LOCATED IN SECTION 20, TOWNSHIP 28, RANGE 38 EAST, BREVARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF STADIUM PARKWAY EXTENSION-SEGMENT E, ACCORDING TO THE PLAT THEREOF AS RECORDED IN ROAD PLAT BOOK __, PAGE __, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND RUN SOUTHWEST ALONG THE WESTERLY LINE OF SAID STADIUM PARKWAY EXTENSION-SEGMENT E THE FOLLOWING FOUR (4) COURSES AND DISTANCES; (1) THENCE S48°45'27"W, A DISTANCE OF 150.13 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE RIGHT; (2) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE WEST AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 91°46'18", A CHORD BEARING OF S02°16'36"W AND A CHORD LENGTH OF 35.90 FEET), A DISTANCE OF 40.04 FEET TO THE END OF SAID CURVE; (3) THENCE S48°09'45"W A DISTANCE OF 1155.37 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; (4) THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST AND HAVING A RADIUS OF 1775.00 FEET, A CENTRAL ANGLE OF 01°05'47", A CHORD BEARING OF S47°38'52"W AND A CHORD LENGTH OF 33.97 FEET), A DISTANCE OF 33.97 FEET A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 87°36'43", A CHORD BEARING OF S89°07'40"E AND A CHORD LENGTH OF 34.61 FEET), A DISTANCE OF 38.23 FEET TO THE END OF SAID CURVE; THENCE N45°19'19"W, A DISTANCE OF 495.27 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N45°19'19"W, A DISTANCE OF 112.46 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHWEST, AND HAVING A RADIUS OF 1100.00 FEET, A CENTRAL ANGLE OF 5°17'12", A CHORD BEARING OF N47°57'54"W, AND A CHORD LENGTH OF 101.46 FEET), A DISTANCE OF 101.46 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHEAST, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 19°45'20", A CHORD BEARING OF N40°43'50"W, AND A CHORD LENGTH OF 8.58 FEET), A DISTANCE OF 8.62 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE NORTHEAST; THENCE N35°34'09"E ALONG SAID NON-TANGENT LINE, A DISTANCE OF 234.61 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTHWEST, AND HAVING A RADIUS OF 1085.00 FEET, A CENTRAL ANGLE OF 4°58'28", A CHORD BEARING OF N33°05'55"E, AND A CHORD LENGTH OF 91.81 FEET), A DISTANCE OF 91.84 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE TO THE SOUTHEAST; THENCE S45°19'19"E ALONG SAID NON-TANGENT LINE, A DISTANCE OF 304.73 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE SOUTHEAST, AND HAVING A RADIUS OF 750.00 FEET, A CENTRAL ANGLE OF 3°57'57", A CHORD BEARING OF S46°39'40"W, AND A CHORD LENGTH OF 51.90 FEET), A DISTANCE OF 51.91 FEET TO THE END OF SAID CURVE; THENCE S44°40'41"W, A DISTANCE OF 240.74 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID CURVE, (SAID CURVE BEING CURVED CONCAVE TO THE NORTH, AND HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF S89°40'41"W, AND A CHORD LENGTH OF 35.36 FEET), A DISTANCE OF 39.27 FEET TO THE POINT OF BEGINNING. CONTAINING 2.00 ACRES MORE OR LESS.



ABBREVIATIONS

AL	ARC LENGTH
CB	CHORD BEARING
CH	CHORD LENGTH
DEL	DELTA / CENTRAL ANGLE
ORVORB	OFFICIAL RECORDS BOOK
PB	PLAT BOOK
PG(S)	PAGE(S)
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
R	RADIUS
RFB	ROAD PLAT BOOK
R/W	RIGHT-OF-WAY



VIERA FIRE STATION



B.S.E. CONSULTANTS, INC.
CONSULTING - ENGINEERING - LAND SURVEYING
312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FL 32901
PHONE: (321) 725-3674 FAX: (321) 723-1159
CERTIFICATE OF BUSINESS AUTHORIZATION: 4905
CERTIFICATE OF LAND SURVEYING BUSINESS AUTHORIZATION: LB00001905

DATE: 9/24/21
DESIGN/DRAWN: HAK/LEH/WFV
DRAWING# 11600_100_001
PROJECT# 11600
SHEET 1 OF 1



S&B ENGINEERING, INC.
11000 200th Ave
Suite 100
Eden Prairie, MN 55324
Phone: (952) 935-1100
Fax: (952) 935-1101
www.sandbeng.com

PROJECT TITLE
VILLAGE 2 N9

PROJECT NO.
11000

DATE
11/05/2004

PROJECT TITLE
VILLAGE 2 N9

PROJECT NO.
11000

DATE
11/05/2004

PROJECT TITLE
VILLAGE 2 N9

PROJECT NO.
11000

DATE
11/05/2004

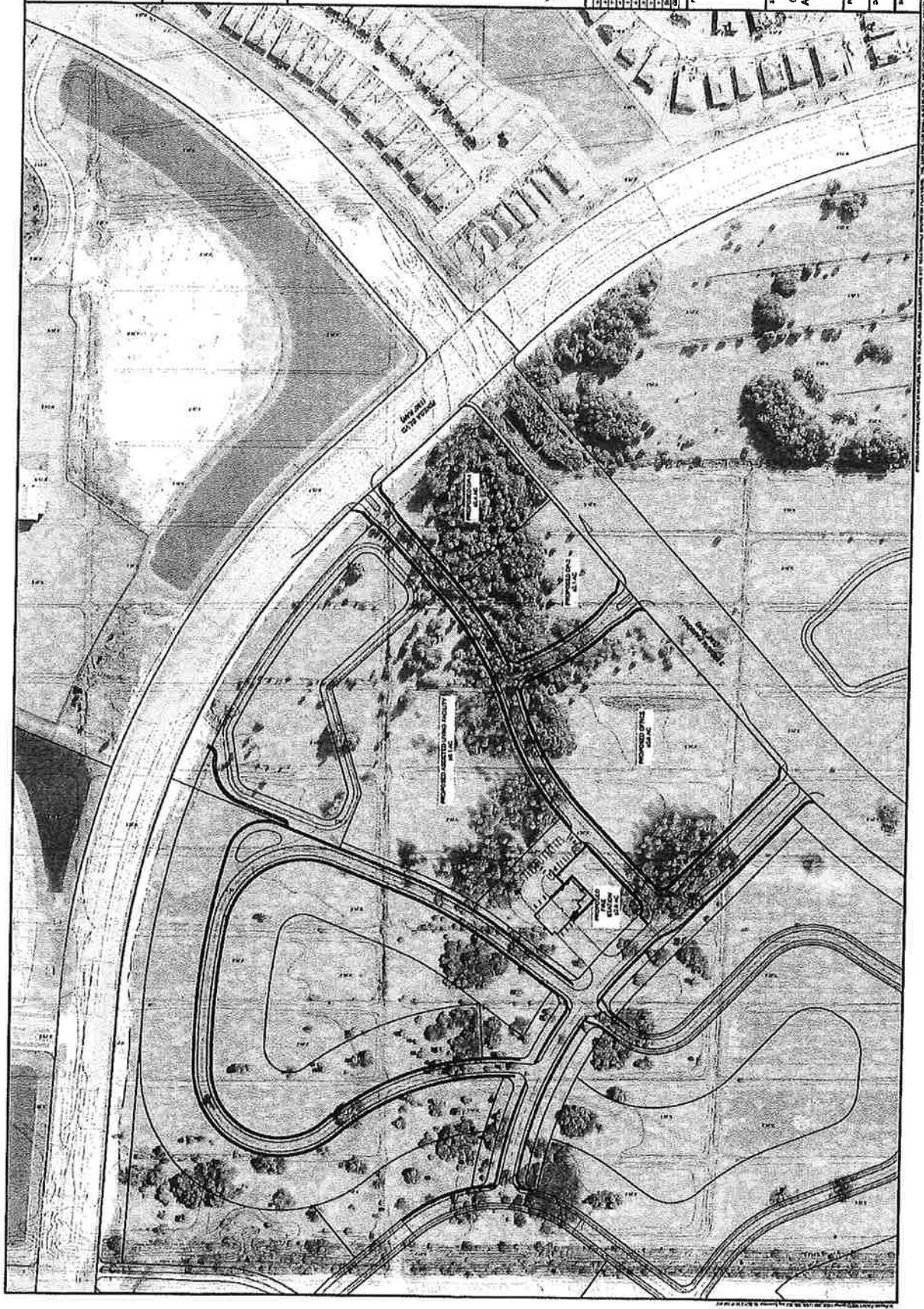


EXHIBIT 3

SITE IMPROVEMENTS BY THE OWNER

The Design-Builder's Scope of Work under the Contract excludes the following site improvements which shall be performed by the Owner:

1. The Site shall be cleared and filled.
2. The Owner shall provide Geotechnical Testing Reports confirming the Site was adequately cleared and prepared prior to receiving fill material.
3. The Site's building pad area plus a 10' perimeter around the building area will be filled to 6" below finished floor elevation.
4. The Site's parking lot and driveway areas shall be filled and rough graded to 10" below pavement elevation.
5. Areas between the Site's parking lot and property lines will be filled and transitioned to the adjacent property grade.
6. The Owner shall provide Compaction Testing for filled areas verifying compaction to 95% of maximum density.
7. The Owner shall install silt fence at the Site's perimeter, which silt fencing shall be maintained and/or replaced by the Design-Builder as necessary.
8. The Owner shall stub a 6" gravity Sanitary Sewer Service into the Site at the adjacent R/W (location TBD during detailed site design phase).
9. The Owner shall stub potable water service into the Site (size of service proposed to be 1", but TBD during detailed site design phase).
10. The Owner shall stub a fire protection water line into the Site or install an onsite fire hydrant (specific fire protection requirements and applicable location and size of installations TBD during detailed site design phase)
11. The Owner shall stub a reuse water service line into the Site.

NOTE 1: All other site work and improvements are included in the Design-Builder's Scope of Work, including but not limited to the following items:

1. Curb cuts and driveway aprons to and from adjacent R/Ws
2. Sidewalks, curb ramps and driveway connections within adjacent R/Ws

NOTE 2: Owner's work shall include the design and permitting of civil horizontal site improvements to within five (5) feet of the building and include potable water, fire protection water, sanitary sewer, reuse water and storm drainage improvements and landscaping. The Design-Builder, however, shall cooperate with Owner's design efforts by providing the demand criteria for the building based on the approved building design and current regulatory requirements during the site design phase, including size of service for potable water, fire protection water, sanitary sewer, re-use water and storm drainage and the location of utility stub-outs into the Site. The Design-Builder shall also coordinate the location of building ingress/egress, floor drains, grease trap/oil-water separator locations, storm water drainage connections and pads for exterior storage facilities with Owner's Site Engineer to facilitate the site plan design and permitting.



AIA Document A141-2014

Viera Fire Station No. 49

Exhibit 4

Pre-Design-Build Amendment Payment Milestones

Steps 1- 3 (Assessment, Kickoff and Design Development) = 30% of design fee at 35 days after an NTP.

Step 4 (Construction Documents to 75%) = 50% of design fee at 70 days after an NTP.

Step 4 – 6 (Completion of CD's, Bid Phase and Presentation of Design-Builder's Proposal) = 20% or remainder of design fees at 115 days after an NTP.

EXHIBIT "2"

FULLY EXECUTED DESIGN-BUILD AMENDMENT

AIA Document A141™ – 2014 Exhibit A

Design-Build Amendment

This Amendment is dated as of January 24, 2023 and is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the 4th day of August in the year 2022 (the "Agreement")

(In words, indicate day, month and year.)

for the following PROJECT:

(Name and location or address)

Viera Fire Station #49

THE OWNER:

(Name, legal status and address)

The Viera Company
7380 Murrell Road, Suite 201
Viera, FL 32940

THE DESIGN-BUILDER:

(Name, legal status and address)

W+J Construction Corp.
1005 Viera Blvd., Suite 202
Rockledge, FL 32955

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

- A.1 CONTRACT SUM**
- A.2 CONTRACT TIME**
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS**
- A.5 COST OF THE WORK**

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

☒ [X] Stipulated Sum, in accordance with Section A.1.2 below

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.

[] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be Four million, ninety two thousand, four hundred six dollars and zero cents (\$4,092,406.00), subject to authorized adjustments as provided in the Design-Build Documents, including "Risk Item Adjustments" as provided that certain Rider attached to the Agreement. The specific "Risk Items" which justify a Risk Item Adjustment of the Stipulated Sum due to a price increase or price decrease incurred by the Design-Builder are specifically identified in **Exhibit A1** attached to this Design-Build Amendment.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ A.1.2.3 Unit prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ A.1.3 Cost of the Work Plus Design-Builder's Fee N/A

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price N/A

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

§ A.1.4.3 Guaranteed Maximum Price N/A

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed (\$), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Insert specific provisions if the Design-Builder is to participate in any savings.)

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price

Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price. (Provide information below or reference an attachment.)

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)

§ A.1.4.3.4 Unit Prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the 25th day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 10th day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Owner receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 N/A With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

Init.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10.00 %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10.00 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to Ninety Percent (90%) of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.
3. Adjust amounts payable to the Design-Builder for "Risk Item Adjustments" approved by the Owner and included in the applicable Application for Payment; which adjustments shall be calculated in accordance with the Rider attached to the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.) N/A

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee N/A

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Article A.5 of this Amendment;
- .2 Add the Design-Builder's Fee, less retainage of percent (%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of percent (%) from that portion of the Work that the Design-Builder self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price N/A

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee, less retainage of percent (%). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of percent (%) from that portion of the Work that the Design-Builder self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

(Paragraph deleted)

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than () days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Substantial Completion of the Work shall not occur later than 365 calendar days from receipt of permit and NTP from The Viera Company.

Portion of Work

N/A

Substantial Completion Date

N/A

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

N/A

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ A.3.1.2 The Specifications:

(Either list the specifications here or refer to an exhibit attached to this Amendment.)

See Attachment A

Section	Title	Date	Pages
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§ A.3.1.3 The Drawings:

(Either list the drawings here or refer to an exhibit attached to this Amendment.)

See Attachment A

Number	Title	Date
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§ A.3.1.4 The Sustainability Plan, if any: N/A

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(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
-------	------	-------

Other identifying information:

§ A.3.1.5 Allowances and Contingencies:

(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

1. Spec Section 133000 for Wall Mounted Pole:	\$20,000
2. 750 gallon grease interceptor:	\$12,000

.2 Contingencies

Design Builder Contingency, see Exhibit A1

§ A.3.1.6 Design-Builder's assumptions and clarifications:

See Attachment B

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title and contact information.)

.1 Superintendent

Jeff Lownes / Pat Swearingen or Brendan McMahon
See Attachment C

.2 Project Manager

Dan Herman or Chad Laston
See Attachment C

.3 Others

Init.

Joan Sottoriva, Project Engineer

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

See Attachment D

ARTICLE A.5 COST OF THE WORK N/A

§ A.5.1 Cost To Be Reimbursed as Part of the Contract N/A

§ A.5.1.1 Labor Costs N/A

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.

(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate (\$0.00)	Rate (unit of time)
-----------------	------------------------------	---------------	---------------------

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 **Contract Costs, N/A** Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction N/A

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items N/A

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor

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repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs N/A

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies N/A

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

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§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions N/A

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract N/A

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds N/A

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements N/A

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the

Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

(Paragraphs deleted)

§ A.5.5 Accounting Records N/A

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

This Amendment to the Agreement entered into as of the day and year first written above. Provided, however, that this Amendment shall only become effective upon approval by Brevard County as contemplated under Section 4.4.3 of the Agreement, If Brevard County has not approved this Amendment within 60 days after the date of this Amendment, this Amendment shall automatically become null and void and automatically terminate.



THE VIERA COMPANY


OWNER (Signature)

Todd J. Pokrywa, President
(Printed name and title)

W+J CONSTRUCTION CORP.


DESIGN-BUILDER (Signature)

Erik Costin Vice President
(Printed name and title)

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EXHIBIT A-1

Bid:1/20/23
Arch: RZK Design Build
W+J Construction Corp

Viera Company Fire Station 49
Viera, Florida

Page 1 of 3
1/24/2023, 2:18 PM

Item	Sec	Description	Material	Labor	Sub	Subcontractor/Notes
		A/E Design Phase Fees	0	0	0	In Previous Design Contract
		A/E Construction Phase Fees	0	0	25,550	RZK
1		General Conditions				
1		General Conditions	0	198,231	140,265	W&J
2		Testing	0	0	10,138	Universal
3		Concrete				
3	033000	Cast In Place Concrete	0	0	471,150	Leo's
4	034104	Precast Hollowcore Plank 8"	0	0	0	In Line 3
4		Masonry				
5	042200	Reinforced Masonry Unit	0	0	210,695	Leo's
6	047000	Stone Veneer	0	0	0	See Alternate
5		Metals				
7	055000	Metal Fabrications	0	0	42,800	HMB
7a		-Bollards	0	0	0	In Line 7
7b		-Steel Angles at Hollow Core	0	0	0	In Line 7
7c		-Steel Beams at Apparatus Bay	0	0	0	In Line 7
7d		-Welding at Beam to HC Embeds	0	0	2,800	W&J
8		Stainless Door Caps	0	0	800	W&J
6		Carpentry				
9	061013	Wood Blocking and Misc Carpentry	0	0	11,800	W+J
10	064000	Plastic Laminate Cabinets	0	0	49,640	Elegance By Design
10a		-Casework Lockers and Privacy Panels	0	0	0	In Line 10
11	066500	Recycled Plastic Lumber	0	0	0	In Line 24
7		Thermal and Moisture Protection				
12	071113	Bituminous Dampproofing	0	0	13,580	Mid State
13	072100	Batt Insulation	0	0	0	In Line 24
14	072119	CMU Cell Foam Insulation	0	0	5,575	Southern Foam
15	072700	Fire Stopping	0	0	0	By Subs
16	072726	Fluid Applied Membrane Air Barriers	0	0	0	In Line 12
17	075400	TPO Roofing (GAF Extreme)	0	0	191,682	G&G
18	076000	Metal Flashing and Trim	0	0	0	In Line 18
19	079000	Joint Sealants	0	0	23,955	Mid State
8		Doors and Windows				
20	081200	Hollow Metal Doors, Frames and Hdwr	0	0	77,131	Cajun
20a	081400	Wood Doors	0	0	0	In Line 20
20b		-Door Install	0	0	0	In Line 20
20c	081600	FRP Doors and Frames	0	0	0	In Line 20
20d	083100	Access Doors and Panels	0	0	900	W&J
21	083323	Overhead Roll Up Doors Exterior	0	0	112,620	Overhead Door of Daytona
21a	083326	Overhead Roll Up Grilles at Kitchen	0	0	28,665	Overhead Door of Daytona
22	084113	Aluminum Framed Entrances	0	0	23,500	East Coast Glass
22a	088000	Glazing	0	0	0	In Line 22
23	089516	Extruded Aluminum Wall Vent	0	0	980	W&J
9		Finishes				
24	091250	Gyp Board and Framing	0	0	111,168	East Coast Framing
25	092400	Stucco	0	0	52,898	Extreme Plastering
26	093013	Ceramic Tiling	0	0	61,900	Spec 9
27	093100	Cultured Marble Window Sills	0	0	0	In Line 10
27a	094000	Solid Surface Countertops	0	0	0	In Line 10
28	095100	Acoustic Ceilings	0	0	18,660	CG Acoustics
29	095410	Acoustical Insulation	0	0	0	In Line 24
30	096500	Resilient Flooring	0	0	0	In Line 26

Item	Sec	Description	Material	Labor	Sub	Subcontractor/Notes
30a	096566	Resilient Athletic Flooring	0	0	0	In Line 26
30b	096513	Resilient Wall Base	0	0	0	In Line 26
31		Epoxy Floors	0	0	47,790	PremUS
31a		-Yellow Striping in Apparatus Bay	0	0	0	In Line 31
32	099100	Painting	0	0	26,900	Dave Goodman
10 Specialties						
33	101116	Markerboards	0	80	1,638	Global Industrial
34	101400	Signage Exterior	0	0	15,439	Sign Access
34a		-Interior Signage	0	0	3,947	Sign Access
35	102113	Urinal Screen	0	0	17,531	Accurate Metal Door
36	102213	Wire Mesh Partitions at Pantrys	0	0	2,800	Wire Crafters
37	102600	Corner Guards	0	0	0	In Line 35
38	102623	Protective Wall Covering (Inpro at Gym)	0	0	0	In Line 35
39	102800	Toilet Accessories	0	0	0	In Line 35
40	104400	Fire Ext and Cabinets	0	0	0	In Line 35
41	108000	Vents	0	0	0	In Line 53/HVAC
42		Range Hood Fire Extinguisher	0	0	0	In Line 53/HVAC
43		Flagpoles	0	1,000	2,761	Eder
44		Bunker Gear Storage	0	0	0	In Line 10/Cabinets
45		Bike Rack	0	50	380	Uline
11 Equipment						
46		Ice Machine	0	0	0	By BCF
47		Washer and Dryer	0	0	2,138	Home Depot
47a		Gas Range	0	0	2,300	Home Depot
47b		Residential Refrigerator Freezers	0	0	9,948	Home Depot
47c		Dishwasher	0	0	1,155	Home Depot
47d		Microwave	0	0	427	Home Depot
48		Dry Storage Shelves at Pantrys	0	80	900	Uline
12 Furnishings						
49		Roller Shades	0	0	2,496	Verticals Unlimited
13 Special Construction						
50	133000	Wall Mounted Pole with Engineering	0	0	20,000	Allowance
21 Fire Suppression						
51		Fire Sprinkler	0	0	37,500	Titan
22 Plumbing						
52		Plumbing	0	0	164,711	BCI Mechanical
23 HVAC						
53		HVAC	0	0	340,000	Britts
54		-Plymovent Exhaust System	0	0	0	In Line 53
26 Electrical						
55		Electrical	0	0	401,615	Chrome Electric
55a		Lightning Protection	0	0	0	In Line 55
28 Electronic Safety and Security						
56		Fire Alarm	0	0	0	In Line 55
57		DAS System Grid Test	0	0	0	In Line 55
Communications						
58		Data	0	0	0	In Line 55
32 Site Construction 644,590						
59		Landscape with Floratam and Irrigation	0	0	96,028	Blue H2O
60		Termite	0	0	573	Pro-Tek
61		Site Mobilization and MOT	0	0	8,340	Goodson

Item	Sec	Description	Material	Labor	Sub	Subcontractor/Notes
61a		Earthmoving	0	0	87,717	Goodson
61b		Erosion Control	0	0	6,737	Goodson
61c		Asphalt Paving	0	0	18,303	Goodson
61d		Site Concrete Paving and Sidewalks	0	0	158,665	Goodson
61e		F Curb	0	0	14,343	Goodson
61f		Water	0	0	62,711	Goodson
61g		Fire Underground	0	0	31,724	Goodson
61h		Striping and Signage	0	0	8,256	Goodson
61i		Sanitary Sewer	0	0	14,261	Goodson
61j		-750 Gallon Grease Trap Allowance	0	0	12,000	Goodson/W+J
61k		Storm Drainage	0	0	96,137	Goodson
62		Trash Gates	0	0	3,000	Accurate Fence
63		Surveying	0	0	25,795	Briel
		Subtotals	0	199,441	3,435,818	
		Sales Tax on Material Column	0			
		Total	0	199,441	199,441	
					3,635,259	
		Permits			0	By Viera Company
		General Liability Insurance (%)			24,309	
		Builder's Risk (Per \$100)	0.00		0	By Viera Company
		Design Builder Contingency (%)	0.03		122,772	
		Design Builder Contingency for DAS System if req'd	0	0	36,200	FAST
		Design Builder Professional Liability			6,139	
		Bond			0	Not Required per Contract
		Cost			3,824,679	
		OH/Profit	7.0%		267,728	
		Total Bid			4,092,406	458.74
		Exclusions:				
		Utility Company Fees				By Viera Company
		Permits and Impact Fees				By Viera Company
		Station Alerting DCR				By BCF
		Radio System Install 800				By BCF
		Radio System VHF				By BCF
		500 Gallon Fuel Convault				By BCF
		Fuel for Convault				By BCF
		Backup Generator and ATS				By BCF
		Station Computers				By BCF
		Ice Machine				By BCF



EXHIBIT A-1
Risk Items

Material	Material Cost Threshold
Concrete & Rebar	\$ 212,017.00
Masonry	\$ 94,812.00
Doors and Hardware	\$ 66,697.00
Overhead Doors	\$ 96,800.00
Metal Studs	\$ 22,350.00
Drywall	\$ 26,800.00
Acoustic Ceiling Grid	\$ 4,608.00
Acoustic Ceiling Tile	\$ 7,103.00
Appliances	\$ 15,968.00
Fire Sprinkler	\$ 13,200.00
HVAC Equipment	\$ 158,000.00
Electrical Gear & Panels	\$ 31,400.00
Lighting Package	\$ 30,800.00
Fire Alarm Panels	\$ 6,109.00
	<hr/>
	\$ 786,664.00



ATTACHMENT "A"

W+J Construction Corp

1005 Viera Blvd., Suite 202 Rockledge, FL 32955

CGC34068

Phone #: (321) 632-7660

Fax #: (321) 632-5927

Contract Documents

Viera New Fire Station # 49

Printed: 01/19/2023

Viera West, FL 32940

Drawings

Drawings

SHEET 1 OF 21 COVER.pdf (Rev. 1)	08/25/2022
SHEET 2 OF 21 SYMBOLS AND ABBREVIATIONS.pdf (Rev. 1)	08/25/2022
SHEET 3 OF 21 GENERAL NOTES.pdf (Rev. 1)	08/25/2022
SHEET 4 OF 21 BREVARD COUNTY PUBLIC WORKS DEVELOPMENT NOTES.pdf (Rev. 1)	08/25/2022
SHEET 5 OF 21 OVERALL EXISTING CONDITIONS.pdf (Rev. 1)	08/25/2022
SHEET 6 OF 21 SITE PLAN.pdf (Rev. 1)	08/25/2022
SHEET 7 OF 21 OVERALL PAVING, GRADING AND DRAINAGE PLAN.pdf (Rev. 1)	08/25/2022
SHEET 8 OF 21 MASTER UTILITY PLAN.pdf (Rev. 1)	08/25/2022
SHEET 9 OF 21 PAVEMENT MARKING AND SIGNAGE PLAN.pdf (Rev. 1)	08/25/2022
SHEET 10 OF 21 PAVING, GRADING AND DRAINAGE DETAILS AND CROSS SECTIONS.pdf (Rev. 1)	08/25/2022
SHEET 11 OF 21 PAVING GRADING, DRAINAGE AND FDOT DETAILS (2022-2023).pdf (Rev. 1)	08/25/2022
SHEET 12 OF 21 FDOT DETAILS (2022-2023).pdf (Rev. 1)	08/25/2022
SHEET 13 OF 21 FDOT DETAILS (2022-2023).pdf (Rev. 1)	08/25/2022
SHEET 14 OF 21 BREVARD COUNTY SANITARY SEWER DETAILS.pdf (Rev. 1)	08/25/2022
SHEET 15 OF 21 BREVARD COUNTY REUSE DETAILS.pdf (Rev. 1)	08/25/2022
SHEET 16 OF 21 CITY OF COCOA DETAILS.pdf (Rev. 1)	08/25/2022
SHEET 17 OF 21 CITY OF COCOA DETAILS.pdf (Rev. 1)	08/25/2022
SHEET 18 OF 21 CITY OF COCOA TECHNICAL PROVISIONS.pdf (Rev. 1)	08/25/2022
SHEET 19 OF 21 CITY OF COCOA TECHNICAL PROVISIONS.pdf (Rev. 1)	08/25/2022
SHEET 20 OF 21 CITY OF COCOA TECHNICAL PROVISIONS.pdf (Rev. 1)	08/25/2022
SHEET 21 OF 21 SURFACE WATER POLLUTION PREVENTION PLAN (SWPPP).pdf (Rev. 1)	08/25/2022
SHEET 1 OF 1 BOUNDARY AND TOPOGRAPHIC SURVEY.pdf	11/09/2022
L-1 Site Landscape Plan.pdf (Rev. 1)	01/02/2023
L-2 Landscape Details.pdf (Rev. 1)	01/02/2023
L-3 Landscape Specifications.pdf (Rev. 1)	01/02/2023
IR-1 Site Irrigation Plan.pdf (Rev. 1)	01/02/2023
IR-2 Site Irrigation Details.pdf (Rev. 1)	01/02/2023
COV COVER SHEET.pdf (Rev. 1)	01/03/2023
AS-1.0 ARCHITECTURAL SITE PLAN AND SMEP SHEET INDEX.pdf (Rev. 1)	01/03/2023
LS-0.0 CODE COMPLIANCE ADULT ADA.pdf (Rev. 1)	01/03/2023
LS-0.2 CODE COMPLIANCE SIGNAGE.pdf (Rev. 1)	01/03/2023
LS-0.3 CODE COMPLIANCE ELECT. REQUIREMENTS.pdf (Rev. 1)	01/03/2023
LS-0.4 CODE COMPLIANCE RATED WALL DETAILS.pdf (Rev. 1)	01/03/2023
LS-0.6 CODE COMPLIANCE RATED JOINT DETAILS.pdf (Rev. 1)	01/03/2023
LS-0.7 CODE COMPLIANCE RATED PENETRATIONS.pdf (Rev. 1)	01/03/2023
LS-1.0 LIFE SAFETY SITE PLAN.pdf (Rev. 1)	01/03/2023
LS-2.0 LIFE SAFETY PLAN.pdf (Rev. 1)	01/03/2023
A-1.0 DIMENSION FLOOR PLAN.pdf (Rev. 1)	01/03/2023

A-1.1 REFERENCE FLOOR PLAN.pdf (Rev. 1)	01/03/2023
A-1.2 ENLARGED PLANS AND DETAILS.pdf (Rev. 1)	01/03/2023
A-1.3 NEW FINISHES PLAN.pdf (Rev. 1)	01/03/2023
A-2.0 REFLECTED CEILING PLAN.pdf (Rev. 1)	01/03/2023
A-3.0 ROOF PLANS AND DETAILS.pdf (Rev. 1)	01/03/2023
A-3.1 ROOF DETAILS.pdf (Rev. 1)	01/03/2023
A-4.0 EXTERIOR ELEVATIONS.pdf (Rev. 1)	01/03/2023
A-5.0 BUILDING SECTIONS.pdf (Rev. 1)	01/03/2023
A-6.0 WALL SECTIONS.pdf (Rev. 1)	01/03/2023
A-6.1 WALL SECTIONS.pdf (Rev. 1)	01/03/2023
A-7.0 INTERIOR ELEVATIONS.pdf (Rev. 1)	01/03/2023
A-7.1 INTERIOR ELEVATIONS.pdf (Rev. 1)	01/03/2023
A-7.2 INTERIOR ELEVATIONS.pdf (Rev. 1)	01/03/2023
A-8.0 DOOR-FRAME TYPES AND HARDWARE SETS.pdf (Rev. 1)	01/03/2023
A-8.1 DOOR DETAILS.pdf (Rev. 1)	01/03/2023
A-8.2 WINDOW TYPES AND DETAILS.pdf (Rev. 1)	01/03/2023
A-9.0 CABINETRY DETAILS.pdf (Rev. 1)	01/03/2023
A-10.0 WALL TYPES.pdf (Rev. 1)	01/03/2023
A-10.1 WALL TYPES.pdf (Rev. 1)	01/03/2023
SP-1.0 SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
SP-1.1 SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
SP-1.2 SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
S-1.0 STRUCTURAL ABBREVIATIONS, INDEX, AND SYMBOLS.pdf (Rev. 1)	01/03/2023
S-1.1 STRUCTURAL NOTES.pdf (Rev. 1)	01/03/2023
S-1.2 STRUCTURAL NOTES.pdf (Rev. 1)	01/03/2023
S-1.3 COMPONENT AND CLADDING WIND LOAD.pdf (Rev. 1)	01/03/2023
S-2.1 FOUNDATION _ SLAB PLAN.pdf (Rev. 1)	01/03/2023
S-2.2 ROOF FRAMING PLAN.pdf (Rev. 1)	01/03/2023
S-3.1 STRUCTURAL ELEVATIONS.pdf (Rev. 1)	01/03/2023
S-5.1 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
S-5.2 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
S-5.3 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
S-5.4 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
S-5.5 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
S-5.6 STRUCTURAL DETAILS.pdf (Rev. 1)	01/03/2023
P-0.1 PLUMBING SYMBOLS, LEGEND, NOTES AND INDEX.pdf (Rev. 1)	01/03/2023
P-1.0 PLUMBING FLOOR PLAN.pdf (Rev. 1)	01/03/2023
P-2.0 PLUMBING SCHEDULES.pdf (Rev. 1)	01/03/2023
P-3.0 PLUMBING DETAILS.pdf (Rev. 1)	01/03/2023
P-4.0 PLUMBING RISERS.pdf (Rev. 1)	01/03/2023
M-0.1 MECHANICAL SCHEDULES, NOTES AND INDEX.pdf (Rev. 1)	01/03/2023
M-0.2 MECHANICAL SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
M-1.0 MECHANICAL SCHEDULES & FLOOR PLAN.pdf (Rev. 1)	01/03/2023
M-2.0 MECHANICAL DETAILS.pdf (Rev. 1)	01/03/2023
FP-0.1 FIRE PROTECTION SYMBOLS, LEGEND, NOTES AND INDEX.pdf (Rev. 1)	01/03/2023
FP-1.0 FIRE PROTECTION FLOOR PLAN.pdf (Rev. 1)	01/03/2023
FA-0.1 FIRE ALARM SYMBOLS, LEGEND, & NOTES.pdf (Rev. 1)	01/03/2023
FA-1.0 FIRE ALARM FLOOR PLAN.pdf (Rev. 1)	01/03/2023
FA-5.0 FIRE ALARM DETAILS.pdf (Rev. 1)	01/03/2023
FA-5.1 FIRE ALARM DETAILS.pdf (Rev. 1)	01/03/2023
FA-6.0 FIRE ALARM SCHEDULES.pdf (Rev. 1)	01/03/2023
E-0.1 ELECTRICAL SYMBOLS, LEGEND, AND INDEX.pdf (Rev. 1)	01/03/2023
E-0.2 ELECTRICAL GENERAL NOTES.pdf (Rev. 1)	01/03/2023

E-0.3 ELECTRICAL SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
E-0.4 ELECTRICAL SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
E-0.5 ELECTRICAL SPECIFICATIONS.pdf (Rev. 1)	01/03/2023
E-0.6 ELECTRICAL SITE PLAN REV.pdf (Rev. 2)	01/18/2023
E-0.7 SITE PHOTOMETRIC PLAN REV.pdf (Rev. 2)	01/11/2023
E-0.8 ELECTRICAL SITE FIXTURE CUT SHEETS.pdf (Rev. 1)	01/11/2023
E-0.9 ELECTRICAL SITE FIXTURE CUT SHEETS.pdf (Rev. 1)	01/11/2023
E-1.0 ELECTRICAL FLOOR PLAN -LIGHTING REV.pdf (Rev. 2)	01/11/2023
E-1.1 ELECTRICAL FLOOR PLAN -POWER.pdf (Rev. 1)	01/03/2023
E-1.2 ELECTRICAL ROOF PLAN -LIGHTNINGPROTECTION.pdf (Rev. 1)	01/03/2023
E-5.0 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.1 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.2 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.3 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.4 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.5 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.6 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.7 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-5.8 ELECTRICAL DETAILS.pdf (Rev. 1)	01/03/2023
E-6.0 ELECTRICAL ONE-LINE DIAGRAM AND SCHEDULES.pdf (Rev. 1)	01/03/2023
T-0.1 TECHNOLOGY SYMBOLS, LEGEND, NOTES.pdf (Rev. 1)	01/03/2023
T-1.0 TECHNOLOGY FLOOR PLAN.pdf (Rev. 1)	01/03/2023
T-5.0 TECHNOLOGY DETAILS.pdf (Rev. 1)	01/03/2023
T-5.1 TECHNOLOGY DETAILS.pdf (Rev. 1)	01/03/2023
T-5.2 TECHNOLOGY DETAILS.pdf (Rev. 1)	01/03/2023
T-5.3 TECHNOLOGY DETAILS.pdf (Rev. 1)	01/03/2023
T-5.4 TECHNOLOGY DETAILS.pdf (Rev. 1)	01/03/2023
BID RFIs.pdf (Rev. 1)	12/06/2022
FYI 2.pdf (Rev. 1)	12/06/2022
Addendum 2.pdf (Rev. 1)	12/06/2022
FYI.pdf (Rev. 1)	11/30/2022
Addendum 1 202211291826.pdf (Rev. 1)	11/23/2022

Specifications

Addenda

Addendum 1 202211291823.pdf (22 Pages)	11/23/2022
FYI.pdf (5 Pages)	11/30/2022
TVC-BC Fire Station #49 - BID RFIs_2022-11-30.pdf (2 Pages)	12/01/2022
FYI 2.pdf (2 Pages)	12/06/2022
Addendum 2.pdf (7 Pages)	12/06/2022
TVC-BC Fire Station #49 - BID RFIs_2022-12-06.pdf (3 Pages)	12/06/2022

Attachment "B"

Assumptions & Clarifications

Clarifications

1. Utility company fees, building permit and impact fees are by the Viera Company.
2. Floratam Sod has been included in lieu of Bahia.
3. The construction duration is 12 months from issuance of permit and Notice to Proceed.
4. This proposal expires in 60 days.

Exclusions

- Utility Company Fees
- Permits
- Impact Fees
- Station Alerting DCR
- Radio System Install 800
- Radio System VHF
- 500 Gallon Fuel Convault
- Fuel for Convault
- Backup Generator and ATS
- Station Computers
- Ice Machine

ATTACHMENT "C"



DAN HERMAN
SR. PROJECT MANAGER

YEARS WITH W+J:
15

YEARS IN INDUSTRY:
25

EDUCATION:
Bachelor of Building Construction
University of Florida

REGISTRATIONS/CERTIFICATIONS:
LEED AP BD+C
ASHE
OSHA 30
SWPPP
First Aid/CPR/AED

1. INDIAN HARBOUR BEACH POLICE DEPARTMENT

New 13,000 square foot police facility houses a large multipurpose room, a work out room including equipment and tv hook up, multiple offices, interview rooms, muster space, an armory and sallyport. State-of-the-art technology is used throughout the building. Built for LEED certification.

2. SATELLITE BEACH PUBLIC WORKS FACILITY

New, 2-story, 13,182 square foot building provides vehicle bays, work shops and tool areas on the first floor. Second floor has a large command center, offices for administration as well as conference room and storage room. Building was designed for future expansion to include the Satellite Beach Fire Station

3. CAPE CANAVERAL VOLUNTEER FIRE DEPARTMENT

Demolition of existing facility/new construction of 10,800 SF 3-bay fire station / 9 semi-private bunk rooms / gym and kitchen. Built of masonry, cold-formed steel framing/trusses and steel deck roof, this structure was built to withstand the harsh conditions of Florida beach-side weather.

4. FLORIDA POWER & LIGHT SERVICE CENTER

- + Indian River County Service Center, Vero Beach - 4 new buildings on FPL campus includes new, 2-story service center, fleet service garage, storage warehouse, and a service truck wash. \$13 M
- + Flagler County Service Center, Palm Coast - 25,436 2-story office building on 6 acres / Tilt-up concrete panels / Building will be used as Emergency Operations Center during and after storm events. \$6M

5. BARBARA PILL LAW ENFORCEMENT FACILITY

new 18,453 square foot facility houses a large multipurpose room, a 2,000 square foot gym including equipment and tv hook up, multiple offices, interview rooms, muster space, an armory and sally port





CHAD LASTON PROJECT MANAGER

YEARS WITH W+J:
6

YEARS OF EXPERIENCE:
26

EDUCATION:
Bachelor of Building Construction
University of Florida

REGISTRATIONS/CERTIFICATIONS:
LEED AP BD+C
SWPPP
OSHA 30
First Aid, CPR, AED

1. COCOA FIRE DEPARTMENT HQ & STATION #1

New, 15,600 square foot, 4-bay, Fire Station No. 1/Headquarters / building is single-story to house up to 8 fire fighters in private bunk rooms. The station is home to fire chief and administration. Also part of the station is a training/agility room, kitchen, and relaxation/living room. Design-Build / January 2018

2. COCOA FIRE STATION NO. 2 & NO. 3

New construction / the two new identical fire stations feature 5 bunk rooms, a full-size kitchen/dining/day room, physical agility room, offices and a 2-bay engine/apparatus room / 8,148 SF. June 2018

3. VIERA HIGH SCHOOL EXPANSION

New expansion to Viera High School / 20,000 SF classroom building / science career and technical lab space / currently in design / estimated completion August 2023.

4. ODYSSEY CHARTER SCHOOL EXPANSION, WYOMING CAMPUS

New, Tilt up construction performing arts building/gymnasium, running track, parking lot and bus loop for local charter school. Free-standing facility on open/active high school campus. Palm Bay

5. ODYSSEY CHARTER SCHOOL EXPANSION, ELDRON CAMPUS

New CMU addition to existing classroom building, new parking lot, bus loop and play ground, Palm Bay, FL

6. MILL CREEK K8 CONVERSION

New, Tilt up construction Classroom (2 story) building, new gymnasium/performing arts building and new CEP building / 60,170 gross square feet / hurricane shelter / School District St. Johns Cty, St. Augustine, FL





JOAN SOTTORIVA **PROJECT ENGINEER**

YEARS WITH W+J:

2

YEARS IN INDUSTRY:

15

REGISTRATIONS/CERTIFICATIONS:

OSHA 10

First Aid/CPR/AED

Ms. Sottoriva joined W+J Construction two years ago but she has 15 years' experience as Construction Project Engineer. Her duties as project engineer include: Maintaining relationships and managing the flow of information between Owners, Architects, Consultants and Subcontractors. Joan reviews and tracks submittals and RFI's through approval and final distribution. She maintains all record construction documents. Joanie also manages the close out process by preparing a complete portfolio of project related documents, which includes warranty letters, submittals and/or product data, owner and maintenance manuals, and a complete set of as-built drawings for the owner.

For the Fire Station project, Joanie will be working in the Construction Phase. She will perform all duties as listed above and maintain the drawing and specification folders within our RedTeam program as well as Plan Grid. She will ensure all users are viewing and utilizing the most current, approved construction documents.



JEFF LOWNES **SUPERINTENDENT**

YEARS WITH W+J: 5

YEARS IN INDUSTRY: 35

CERTIFICATIONS:

OSHA 30

CPR/First Aid/AED

Jeff has been working in the construction industry for many years. He is extremely detail oriented and has developed an extensive quality control process. He communicates effectively with all team members and understands the complexities of working near coastal locations.

ODYSSEY CHARTER SCHOOL, WYOMING CAMPUS

New tilt wall concrete performing arts center/gymnasium / SF / \$6.1 M / Palm Bay

ODYSSEY CHARTER SCHOOL, ELDRON CAMPUS

Expansion to existing school building, parking lot, bus loop and track area / SF / \$2.1 M / Palm Bay

GLENDAL PARK OFFICE BUILDING

New 2-story tilt wall concrete office complex and build out of office suites / 20,000 SF / \$4.2 M / Rockledge

SPACE COAST HEALTH FOUNDATION/CENTER FOR COLLABORATION

Renovation of 30,000 SF existing bowling alley into office suites for 3 separate tenants / \$6 M / Rockledge



BRENDAN MCMAHON

SUPERINTENDENT

YEARS WITH W+J: 2

YEARS IN INDUSTRY: 28

CERTIFICATIONS:

OSHA 10

SWPPP

CPR/First Aid/AED

Brendan does an excellent job supervising subcontractors, managing the short-term schedule, and keeping each project he works on budget. His project experience includes:

VIDINA OFFICE COMPLEX

- + Two new buildings (10,000 SF each) to be divided into multiple spaces, providing the perfect opportunity for multiple businesses / \$4M
- + Kehoe Animal Clinic - first build out within Vidina complex / 4,135 SF / \$900,000

ADDISON SQUARE RETAIL

New construction of 10,454 square foot shell building / Like the other premium, open-air shopping centers in Viera, Florida such as The Avenue (which currently have 77 businesses in occupancy), this one is built to house multiple companies under one single-story roof. Depending on the size requirements of the companies that will eventually inhabit this building, it can readily accommodate up to six retail enterprises / \$1.9M



PAT SWEARINGEN

SUPERINTENDENT

YEARS WITH W+J: 11

YEARS IN INDUSTRY: 35

CERTIFICATIONS:

OSHA 30

SWPPP

CPR/First Aid/AED

Pat has been working as a superintendent for over 35 years. He has comprehensive experience in construction management procedures and is diligent on safety and completing project on time and on schedule. His project experience includes:

FLORIDA POWER & LIGHT SERVICE CENTER

Indian River County Service Center, Vero Beach - 4 new buildings on FPL campus includes new, 2-story service center, fleet service garage, storage warehouse, and a service truck wash. \$13 M

BLUE ORIGIN ANNEX

New construction of 46,500 SF PEMB / confidential use / \$3.2 M / Kennedy Space Center

PORT SALERNO INDUSTRIAL WAREHOUSE

New construction of tilt wall warehouse / 21,000 SF / \$2 M / Port Salerno

BARBARA PILL LAW ENFORCEMENT FACILITY

New construction of 18,500 SF LEF for Brevard County Sheriff's Department / \$3.5 M / Titusville

Attachment "D"

Name	Discipline	Address
Universal Engineering	Material Testing	820 Brevard Ave., Rockledge, FL
Leo's Concrete Specialties	Concrete & Masonry	521 Thor Ave., Palm Bay, FL
HMB Steel Corp	Metal Fabrications	4080 Pines Industrial Ave., Rockledge, FL
Elegance by Design	Architectural Casework	201 Independence Dr., Mims, FL
Midstate Caulking	Damproofing & Joint Sealants	1600 Kelley Ave., Kissimmee, FL
Southern Foam Insulation	Insulation	3882 Center Loop, Orlando, FL
G&G Roofing	Roofing	456 Gus Hipp Blvd., Rockledge, FL
Cajun Installations & Distributing	Hollow Metal Doors, Frames & Hdwr	701 Marshall Lake Dr., Apopka, FL
Overhead Door Co of Daytona	Coiling Doors & Grilles	219 Fentress Blvd., Daytona Beach, FL
East Coast Architectural Glass	Entrances and Glazing	2350 Commerce Park Dr., Palm Bay, FL
East Coast Framing	Gyp Board & Framing	5345 Citurs Blvd., Cocoa, FL
Extreme Plastering & Stucco	Stucco	630 Eyster Blvd., Rockledge, FL
Spec 9	Flooring	5465 Sand Lake Dr., Melbourne, FL
CG Acoustics	Acoustic Ceilings	274 E Eau Gallie Blvd., Indian Harbour Beach, FL
PremUS or Orlando	Epoxy Floors	16403 Myers Ct., Clermont, FL
Dave Goodman Quality Painting	Painting	949 WhestonePl., Rockledge, FL 32955
Global Industrial	Markerboards	
Sign Access	Exterior & Interior Signage	7205 Waelti Dr., Melbourne, FL
Accurate Metal Door	Division 10	1355 White Dr., Titusville, FL

Attachment "D"

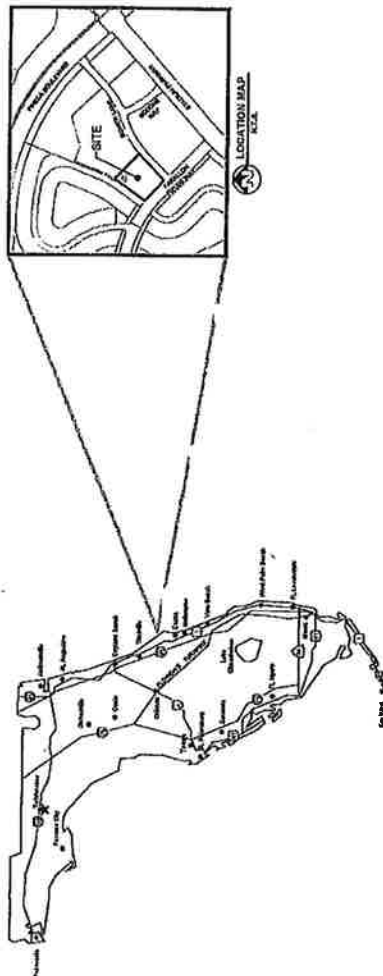
Name	Discipline	Address
Verticals Unlimited	Roller Shades	301 Enterprise St., Ocoee, FL
Titan Fire Protection	Fire Sprinkler	395 S Range Rd., Cocoa, FL
BCI Mechanical	Plumbing	145 East Dr., Melbourne, FL
Britt's AC & Fire Sprinkler	HVAC	655 Childre Ave., Titusville, FL
Chrome Electric	Electrical	500 S Park Ave., Titusville, FL
BlueH2O Irrigation & Landscaping	Landscape w/Floritam & Irrigation	1745 Aurora Rd., Melbourne, FL
Pro-Tek Services of FL	Termite	311 Altamonte Commerce Blvd, Altamonte, FL
Goodson Paving	Earthmoving	630 Cidco Rd., Cocoa, FL
Accurate Fence & Screen	Trash Gates	16877 E Colonial Dr., Orlando, FL
Briel & Associates	Surveying	1790 Hwy A1A., Satellite Beach, FL

EXHIBIT "3"

COVER SHEET FOR EACH PLAN SET - THE FINAL CONSTRUCTION PLANS

BREVARD, COUNTY, FLORIDA

For details, see Exhibit 3, Page 2



ANDREAS APOTHEKE
1000 W. LAMAR AVE
ST. LOUIS MO 63107
TEL: 314-241-1111
FAX: 314-241-1112

DEVELOPER/PROPERTY OWNER
THE VIERA COMPANY
7360 MURRELL ROAD SUITE #201
VIERA, FLORIDA 32940
PH: (321) 242-1200

- PREPARED BY -

B.S.E. CONSULTANTS, INC.
TING - ENGINEERING - LAND SUR

CONSULTING - ENGINEERING - LAND SURVEYING
3312 SOUTH HARBOR CITY BOULEVARD, SUITE 4 MELBOURNE, FLORIDA 32901
PHONE: (321) 725-3574 / FAX: (321) 723-1159
CERTIFICATE OF PROFESSIONAL ENGINEERS BUSINESS AUTHORIZATION: 4805

PHONE: (321) 725-3574 / FAX: (321) 723-1159
 CERTIFICATE OF PROFESSIONAL ENGINEERS BUSINESS AUTHORIZATION: 4905



See past and current issues for continuing County reports of interest to your agency and community, including, but not limited to, the following: Countywide and local elections, public works, health care, education, and other public services. The information in this column may require additional County personnel building engineering workload at related positions. County personnel should keep records to submit as part of workload studies and other reports.



B.S.E. CONSULTANTS, INC.

and the U.S. Coast Guard. The Coast Guard is the lead agency for the U.S. Navy's maritime law enforcement activities. The Coast Guard is also the lead agency for the U.S. Navy's maritime law enforcement activities.

SCOTT W. CLARK, JR. 2004-2005
OFFICE OF FLORIDA NA COMMISSIONER OF REVENUE

1. **NAME** _____
 2. **ADDRESS** _____
 3. **CITY** _____
 4. **STATE** _____
 5. **ZIP** _____
 6. **PHONE** _____
 7. **E-MAIL** _____
 8. **DATE** _____
 9. **SIGNATURE** _____
 10. **PRINT NAME** _____
 11. **PRINT ADDRESS** _____
 12. **PRINT CITY** _____
 13. **PRINT STATE** _____
 14. **PRINT ZIP** _____
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POWER TRAIL

**BREVARD
COUNTY FIRE
STATION 49**

THE

COVER

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ON 10/18/20

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THE NEW YORK PUBLIC LIBRARY

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2	11630_400_002	SYMBOLS AND ABBREVIATIONS
3	11630_400_003	GENERAL NOTES
4	11630_400_004	BREVARD COUNTY PUBLIC WORKS DEVELOPMENT NOTES
5	11630_400_005	OVERALL EXISTING CONDITIONS
6	11630_400_006	SITE PLAN
7	11630_400_007	OVERALL PAVING, GRADING & DRAINAGE PLAN
8	11630_400_008	MASTER UTILITY PLAN
9	11630_400_009	PAVEMENT MARKING AND SIGNAGE PLAN
DETAILS		
10	11630_400_010	PAVING, GRADING AND DRAINAGE DETAILS AND CROSS SECTIONS
11	11630_400_011	PAVING GRADING, DRAINAGE AND FDOT DETAILS (2022-2023)
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17	11630_400_017	CITY OF COCOA DETAILS
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20	11630_400_020	CITY OF COCOA TECHNICAL PROVISIONS
21	11630_400_021	SURVEY CONTROL
22	11630_400_022	SURFACE WATER POLLUTION PREVENTION PLAN (SWPPP)
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1	11630_100_001	BOUNDARY AND TOPOGRAPHIC SURVEY
BUILDING PLAN		
A-1.0	BUILDING PLAN	DIMENSION FLOOR PLAN
LANDSCAPE PLANS		
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L-2	LANDSCAPE PLANS	LANDSCAPE DETAILS
L-3	LANDSCAPE PLANS	LANDSCAPE SPECIFICATIONS
IR-1	LANDSCAPE PLANS	SITE IRRIGATION PLAN
IR-2	LANDSCAPE PLANS	IRRIGATION DETAILS
PHOTOMETRICS		
E-0.6	PHOTOMETRICS	PHOTOMETRICS
E-0.7	PHOTOMETRICS	PHOTOMETRICS
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E-1.0	PHOTOMETRICS	PHOTOMETRICS

For details, see exhibit 3, Page 4

MELBOURNE, FL

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CONTACT INFORMATION				
OWNER	CIVIL/LANDSCAPE	ARCHITECT	SMEP	CONTRACTOR
 THE OFFICE OF THE CITY ADMINISTRATOR 100 CALIFORNIA STREET, SUITE 200 SAN FRANCISCO, CA 94111-4202 415-357-2819 HUMAN@CITYOF.SF.GOV	 HKS HKSARCHITECTS.COM 425 SOMMER AVENUE, SUITE 1 SAN FRANCISCO, CA 94111 415-774-8889	 PKZ WWW.ARCHITECTPKZ.COM 1000 CALIFORNIA STREET, SUITE 200 SAN FRANCISCO, CA 94111 415-774-8889	 ATC ADVANCED TECHNOLOGICAL SOLUTIONS WWW.ATCSOLUTIONS.COM 1000 CALIFORNIA STREET, SUITE 200 SAN FRANCISCO, CA 94111 415-452-4829	 WJ WWW.CONTRACTORSINTECH.COM 1000 CALIFORNIA STREET, SUITE 200 SAN FRANCISCO, CA 94111 415-452-4829 CONTACT: JEFF COFFIN JEFF@CONTRACTORSINTECH.COM

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DRAWING LIST	
DESCRIPTION	
COV	COVER SHEET
CIVIL DRAWINGS (SEE CIVIL COVER SHEET)	
AS-1.0	ARCHITECTURAL SITE PLAN AND SMEP SHEET INDEX
LS-0.0	CODE COMPLIANCE ADULT ADA
LS-0.1	NOT USED
LS-0.2	CODE COMPLIANCE SIGNAGE
LS-0.3	CODE COMPLIANCE ELECT. REQUIREMENTS
LS-0.4	CODE COMPLIANCE RATED WALL DETAILS
LS-0.5	NOT USED
LS-0.6	CODE COMPLIANCE RATED JOINT DETAILS
LS-0.7	CODE COMPLIANCE RATED PENETRATIONS
LS-1.0	LIFE SAFETY SITE PLAN
LS-2.0	LIFE SAFETY PLAN
A-1.0	DIMENSION FLOOR PLAN
A-1.1	REFERENCE FLOOR PLAN
A-1.2	ENLARGED PLANS AND DETAILS
A-1.3	NEW FINISHES PLAN
A-2.0	REFLECTED CEILING PLAN
A-3.0	ROOF PLANS AND DETAILS
A-3.1	ROOF DETAILS
A-4.0	EXTERIOR ELEVATIONS
A-5.0	BUILDING SECTIONS
A-6.0	WALL SECTIONS
A-6.1	WALL SECTIONS
A-7.0	INTERIOR ELEVATIONS
A-7.1	INTERIOR ELEVATIONS
A-7.2	INTERIOR ELEVATIONS
A-8.0	DOOR-FRAME TYPES AND HARDWARE SETS
A-8.1	DOOR DETAILS
A-8.2	WINDOW TYPES AND DETAILS
A-9.0	CABINETS DETAILS
A-10.0	WALL TYPES
A-10.1	WALL TYPES
SP-1.0	SPECIFICATIONS
SP-1.1	SPECIFICATIONS
SP-1.2	SPECIFICATIONS
SEE AS-1.0 FOR SMEP DRAWING LIST	

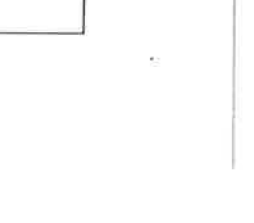
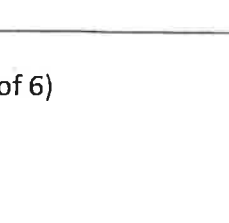
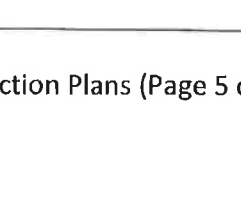


Exhibit 3 - Cover Sheets Final Construction Plans (Page 5 of 6)

DRAWING LIST							
REVISIONS Δ							
Δ	Δ	Δ	Δ	Δ	Δ	Δ	DESCRIPTION
							STRUCTURAL
						S-1.0	STRUCTURAL ABBREVIATIONS, INDEX AND SYMBOLS
						S-1.1	STRUCTURAL NOTES
						S-1.2	STRUCTURAL NOTES
						S-1.3	COMPONENT AND CLADDING WIND LOAD DIAGRAM
						S-2.1	FOUNDATION / SLAB PLAN
						S-2.2	ROOF FRAMING PLAN
						S-3.1	STRUCTURAL ELEVATIONS
						S-3.1	STRUCTURAL DETAILS
						S-3.2	STRUCTURAL DETAILS
						S-3.3	STRUCTURAL DETAILS
						S-3.4	STRUCTURAL DETAILS
						S-3.5	STRUCTURAL DETAILS
						S-3.5	STRUCTURAL DETAILS
							PLUMBING
						P-0.1	PLUMBING SYMBOLS, LEGEND, NOTES AND INDEX
						P-1.0	PLUMBING FLOOR PLAN
						P-2.0	PLUMBING SCHEDULE
						P-3.0	PLUMBING DETAILS
						P-4.0	PLUMBING RISERS
			</				

Exhibit 3 - Cover Sheets Final Construction Plans (Page 6 of 6)