

RESOLUTION NO. 2023 - 126

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO WORK WITH DESIGN-BUILD FIRM TO FINALIZE TERMS AND EXECUTE THE PROPOSED DEISGN-BUILD AGREEMENT WITH SUPERIOR CONSTRUCTION COMPANY SOUTHEAST, LLC FOR THE FINAL DESIGN, BUILD AND POST-DESIGN SERVICES OF CR 210 WIDENING FROM GREENBRIAR ROAD TO CIMARRONE BLVD AT A GUARANTEED MAXIMUM PRICE OF \$32,329,547.75, PLUS AN OWNER'S SHARED CONTINGENCY AMOUNT OF \$432,000, FOR A TOTAL AMOUNT OF \$32,761,547.75.

RECITALS

WHEREAS, on April 19, 2022, the Board of County Commissioners approved the negotiation and execution of a Preliminary Design-Build Contract for the CR-210 widening from Greenbriar Road to Cimarrone Blvd project, consisting of design, permitting, and specified early works construction in accordance with RFQ No. 22-13; and

WHEREAS, the County received a GMP Proposal from the Design-Build firm, and conducted negotiations to arrive at the proposed GMP of \$32,761,547.75 for completion of the Work, with an additional Owner's Shared Contingency of \$432,000 which can only be utilized through approval by the County; and

WHEREAS, the County finds that entering into a Secondary Agreement for the final design and construction of the project at the Guaranteed Maximum Price Proposal serves a public purpose; and

WHEREAS, the project will be funded by the SJC Public Works Department.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to work with the Design-Build Firm to finalize terms of the Secondary Design Build Agreement and associated General Terms of Contract documents, provided the finalized terms are in material conformance to the attached drafts.

Section 3. The County Administrator, or designee, is further authorized to execute a Secondary Design-Build Agreement upon agreement of finalized terms, for completion of the Work at the Guaranteed Maximum Price as approved by the Board.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, on this 18th day of April, 2023.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: [Signature]  
Christian Whitehurst, Chair

ATTEST: Brandon J. Patty,  
Clerk of the Circuit Court & Comptroller

By: [Signature]  
Deputy Clerk

Rendition Date APR 18 2023



Standard Form of  
Agreement Between  
Owner and Design-  
Build Firm – Cost  
Plus Fee with an  
Option for a  
Guaranteed  
Maximum Price

**Document No. 530**

Second Edition, 2010

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Washington, D.C.



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## Standard Form of Agreement Between Owner and Design-Build Firm - Cost Plus Fee with an Option for a Guaranteed Maximum Price

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

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This **AGREEMENT** is made as of this \_\_\_\_\_ day of \_\_\_\_\_ in the year of 2023, by  
and between the following parties, for services in connection with the Project identified below:

**OWNER:**

St. Johns County, a political subdivision of the State of Florida  
500 San Sebastian View  
St. Augustine, FL 32084  
ATTN: Assistant Director, Purchasing & Contracts

**DESIGN-BUILD FIRM:**

SUPERIOR Construction Company Southeast, LLC  
7072 Business Park Blvd N  
Jacksonville, FL 32256  
ATTN: Bhavin Naik, Manager

**PROJECT:**

RFQ No. 22-13; Design-Build Services for CR-210 Widening from Greenbriar Road to Cimarrone  
Boulevard

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Build Firm  
agree as set forth herein.

## **Article 1** **Scope of Work**

1.1 Design-Build Firm shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

## **Article 2** **Contract Documents**

2.1 The Contract Documents are comprised of the following:

2.1.1 All fully executed Change Orders and Amendments to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Build Firm* (2010 Edition) ("General Conditions of Contract");

2.1.2 Notice(s) to Proceed, issued by the County;

2.1.3 This DBIA Document No: 530; Standard Form of Agreement Between Owner and Design-Build Firm – Cost Plus Fee with an Option for a Guaranteed Maximum Price, including all exhibits but excluding, the GMP Exhibit ("Agreement");

2.1.4 DBIA Document No: 535; Standard Form of General Conditions Between Owner and Design-Build Firm, as modified by the Parties ("General Conditions of Contract");

2.1.5 The GMP Exhibit referenced in Section 6.6.1.1 herein or, if applicable, the GMP Proposal accepted by Owner in accordance with Section 6.6.2 herein;

2.1.6 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract;

2.1.7 All Payment and Performance Bond(s) obtained and recorded by Design-Build Firm for the Project;

2.1.8 All Insurance Certificates required in accordance with this Agreement; and

2.1.9 Request for Qualifications (RFQ) No: 22-13; Design-Build Services for CR 210 Widening from Greenbriar Road to Cimarrone Boulevard and all Exhibits thereto;

2.2 Documents not enumerated above are not Contract Documents and do not form part of this Agreement. No terms, conditions, limitations or exclusions in Design-Build Firm's proposal documents or invoices shall be binding upon the Owner, or become part of the Contract Documents.

2.2.1 Shop Drawings, Product Data, Samples, and similar submittals ("Submittals") are not Contract Documents. The County will review and take action upon Design-Build Firm's Submittals but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities, nor for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Design-Build Firm.

2.2.1.1 All Submittals (whether in hard or electronic copy) prepared by or on behalf of Design-Build Firm in the course of the Work shall be the exclusive property of the County. Ownership of any proprietary information or intellectual property contained in such Submittals shall remain with



Design-Build Firm. Design-Build Firm grants the Owner a perpetual, royalty-free, licence to use, copy, and allow third parties to use such Submittals and all proprietary information contained in them as may be required for the Owner's internal business purposes including, without limitation: tendering, installing, operating, repairing, maintaining, modifying, reconstructing, replacing and/or upgrading the Work. Such licence shall be capable of transfer and/or sub-licencing in whole or part without notice to or further consent of Design-Build Firm. Design-Build Firm shall not be held liable for reuse of Design-Build Firm's Submittals by the Owner for purposes other than originally intended as stated in the Contract Documents.

### **Article 3** **Interpretation and Intent**

3.1 Design-Build Firm and Owner, prior to execution of this Agreement, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents, for any conflicts or ambiguities. Design-Build Firm and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of this Agreement or, if applicable, prior to Owner's acceptance of the GMP Proposal.

3.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of this Agreement, or if applicable, after Owner's acceptance of the GMP Proposal, Design-Build Firm and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

3.3 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.4 If Owner's Project Criteria contain design specifications: (a) Design-Build Firm shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) Design-Build Firm shall be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Build Firm's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

3.5 The Contract Documents form the entire agreement between Owner and Design-Build Firm and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

### **Article 4** **Ownership of Work Product**

4.1 **Work Product.** All concepts, products, processes (patentable or otherwise) and copyrightable material (including but not limited to documents, specifications, calculations, maps, sketches, notes, reports, studies, proposals, data, models, samples, surveys, drawings, designs, electronic software, and any other results of the Work), first developed, produced or reduced to practice by Design-Build Firm, Design Subconsultant or Sub-contractor, or purchased under this Agreement, or at the Owner's expense ("Work Product"), shall be and remains the Owner's property upon creation. At the Owner's request, Design-Build Firm shall provide Owner with copies of supporting computations, analyses, sketches, or similar items pertaining to the Design-Build Firm's Work Product.

4.2 The Design-Build Firm may not reuse Work Product developed by Design-Build Firm for the Owner without express written permission of the Owner. The Owner may, at its option, reproduce and reuse Work Product (in whole or in part) and Design-Build Firm agrees to such reuse in accordance with this provision. Any plans which the Design-Build Firm provides under this Agreement shall contain a shall contain a statement that they are subject to reuse in accordance with the provisions of Section 287.055(10), Florida Statutes. In the event the Owner alters the Work Product, or any portion(s) thereof, for reuse, the Owner shall indemnify and hold Design-Build Firm, and anyone working by or through the Design-Build Firm harmless from and against any and all claims, damages, liabilities, losses, and expenses, including reasonable attorney's fees arising from the County's alteration of the Work Product.

## **Article 5**

### **Contract Time**

5.1 **Date of Commencement.** The Work shall commence within five (5) days of Design-Build Firm's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

5.2 **Substantial Completion and Final Completion.**

5.2.1 Substantial Completion of the entire Work shall be achieved no later than seven hundred fifty (750) calendar days after the Date of Commencement ("Scheduled Substantial Completion Date").

5.2.2 Design-Build Firm shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Build Firm's notice, Owner and Design-Build Firm will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Build Firm's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

5.2.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Build Firm and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Build Firm agree that Owner's use or occupancy will not interfere with Design-Build Firm's completion of the remaining Work.

5.2.4 Final Completion of the Work or identified portions of the Work shall be achieved within thirty (30) calendar days of Substantial Completion, as accepted by the County. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

5.2.5 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 **Time is of the Essence.** Owner and Design-Build Firm mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

**5.4 Liquidated Damages.** Design-Build Firm acknowledges that if either Substantial or Final Completion is not attained within the timeframes provided in Section 5.2 above, or as amended thereafter, Owner will suffer damages which are difficult to determine and accurately specify. If Design-Build Firm fails to reach Substantial or Final Completion of the Work as specified in Section 5.2 above, the Owner shall be entitled to withhold from any amounts otherwise due Design-Build Firm or to be paid as a debt due an amount of \$10,814.48 per day, in accordance with the FDOT Liquidated Damages Table, for each and every calendar day of unexcused delay as "Liquidated Damages". The Parties agree that such Liquidated Damages are not a penalty but rather a genuine pre-estimate of monetary damages sustained by the Owner for such loss of revenue and/or increased project administration expenses related to this Agreement because Design-Build Firm failed to perform and complete the Work within the time fixed for completion or additional time granted pursuant to the provisions herein. The assessment of Liquidated Damages is without prejudice to the Owner's rights of termination and Design-Build Firm's obligation to complete the Work.

**5.4.1** The total amount of liquidated damages for delay associated with the Design-Build Firm's failure to achieve Substantial and/or Final Completion within the Contract Time, as may be extended pursuant to the Contract Documents, shall not exceed a cumulative total of \$3,000,000. Such Liquidated Damages are not intended to, and do not, limit Design-Build Firm's liability under the indemnification provisions of Article 7 of the General Terms of Contract, even though third-party Claims against the Indemnified Party may arise out of the same event, breach, or failure that gives rise to the Liquidated Damages.

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**5.5** Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving the Contract Time(s).

**5.6 Excusable Delays.** If Design-Build Firm is delayed in performance of the Work due to acts, omissions, conditions, events, or circumstances that are not reasonably foreseeable, beyond its control, and due to not fault of the Design-Build Firm or any Design Consultant or Sub-contractor, the Contract Time may be reasonably extended by Change Order upon agreement by both parties. By way of example, events that may be considered for an extension of Contract Time include acts or omissions by the Owner, or anyone under the Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events. If events reasonably beyond the Design-Build Firm's control and without its fault or negligence cause a delay in the Design-Build Firm's performance of the Work, Design-Build Firm shall submit sufficient documentation of such delay to the Owner within three (3) business days of the event causing the delay.

**5.6.1** In addition to the consideration for an extension to Contract Time for those events set forth in Section 5.6 above, Design-Build Firm may also submit for Owner consideration, a reasonable adjustment to the Contract Price.

## **Article 6** **Contract Price**

### **6.1 Contract Price.**

**6.1.1** As compensation for satisfactory performance of the Work, Owner shall pay, and Design-Build Firm shall accept, as full and complete compensation for all the Work required herein, in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") equal to Design-Build Firm's Fee (as defined in Section 6.2 hereof) plus the Cost of the Work (as defined in Section 6.3 hereof), subject to any GMP established in Section 6.6 hereof and any adjustments made in accordance with the General Conditions of Contract.

### **6.2 Design-Build Firm's Fee.**



6.2.1 Design-Build Firm's Fee shall be:

Four Million Four Hundred Sixty-One Thousand Thirty-One Dollars and Ten Cents (\$ 4,461,031.10), as adjusted in accordance with Section 6.2.2 below.

6.2.2 Design-Build Firm's Fee will be adjusted as follows for any changes in the Work:

6.2.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Build Firm shall receive a Fee of Sixteen percent (16%) of the additional Costs of the Work incurred for that Change Order.

6.2.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

An amount equal to the sum of: (a) sixteen percent (16%) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Build Firm's Fee).

6.3 **Cost of the Work.** The term Cost of the Work shall mean costs reasonably and actually incurred by Design-Build Firm in the proper performance of the Work. The Cost of the Work shall include only the following:

6.3.1 Wages of direct employees of Design-Build Firm performing the Work at the Site or, with Owner's agreement, at locations off the Site; provided, however, that the costs for those employees of Design-Build Firm performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.

6.3.2 Wages or salaries of Design-Build Firm's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

6.3.3 Wages or salaries of Design-Build Firm's personnel stationed at Design-Build Firm's principal or branch offices, but only to the extent said personnel are performing administration functions directly related to the Work.

6.3.4 Costs incurred by Design-Build Firm for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Build Firm, to the extent such costs are based on wages and salaries paid to employees of Design-Build Firm covered under Sections 6.3.1 through 6.3.3 hereof.

6.3.5 The reasonable portion of the cost of travel, accommodations and meals for Design-Build Firm's personnel necessarily and directly incurred in connection with the performance of the Work, provided the costs are agreed to by both Parties.

6.3.6 Payments properly made by Design-Build Firm to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

6.3.7 Costs incurred by Design-Build Firm in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Build Firm, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Build Firm or those working by or through Design-Build Firm. If the costs associated with such Work are

recoverable from insurance, Subcontractors or Design Consultants, Design-Build Firm shall exercise its best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

**6.3.8** Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

**6.3.9** Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Build Firm, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

**6.3.10** Costs of removal of debris and waste from the Site.

**6.3.11** The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

**6.3.12** Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Build Firm at the Site, whether rented from Design-Build Firm or others, and incurred in the performance of the Work.

**6.3.13** Premiums for insurance and bonds required by this Agreement or the performance of the Work.

**6.3.14** All fuel and utility costs incurred in the performance of the Work.

**6.3.15** Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

**6.3.16** Legal costs, court costs and costs of mediation and arbitration reasonably arising from Design-Build Firm's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Build Firm.

**6.3.17** Costs for permits, royalties, licenses, tests and inspections incurred by Design-Build Firm as a requirement of the Contract Documents.

**6.3.18** The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Build Firm resulting from such suits or claims, and paying settlements made with Owner's consent.

**6.3.19** Deposits which are lost, except to the extent caused by Design-Build Firm's negligence.

**6.3.20** Accounting and data processing costs related to the Work.

**6.3.21** Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

#### **6.4 Section Intentionally Omitted.**

#### **6.5 Non-Reimbursable Costs.**

**6.5.1** The following shall not be deemed as costs of the Work:

6.5.1.1 Compensation for Design-Build Firm's personnel stationed at Design-Build Firm's principal or branch offices, except as provided for in Sections 6.3.1, 6.3.2 and 6.3.3 hereof.

6.5.1.2 Overhead and general expenses, except as provided for in Section 6.3 hereof, or which may be recoverable for changes to the Work.

6.5.1.3 The cost of Design-Build Firm's capital used in the performance of the Work.

6.5.1.4 Costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded, unless otherwise agreed to in writing by both parties, in accordance with this Agreement.

**6.6 The Guaranteed Maximum Price ("GMP").**

**6.6.1 GMP Established Upon Execution of this Agreement.**

6.6.1.1 Design-Build Firm guarantees that it shall not exceed the GMP of Thirty-Two Million Three Hundred Twenty-Nine Thousand Five Hundred Forty-Seven Dollars and Seventy-Five Cents (\$32,329,547.75). Documents used as a basis for the GMP shall be identified in an exhibit to this Agreement ("GMP Exhibit"). Design-Build Firm does not guarantee any specific line item provided as part of the GMP, and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Build Firm agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents.

6.6.1.2 The Owner will maintain a Contingency in the amount of Four Hundred Thirty-Two Thousand Dollars (\$432,000.00), which is not included in the GMP, but is available for use for unforeseen circumstances and/or design changes upon approval by the Owner. Any unused amounts of this Contingency, remaining at Final Completion, provided there are no current or impending disputes between Owner and Design-Build Firm, shall be split between Owner and Design-Build Firm at a ratio of seventy percent (70%) retained by Owner, and thirty percent (30%) paid to Design-Build Firm.

**Article 7**  
**Procedure for Payment**

**7.1 Progress Payments.**

7.1.1 Design-Build Firm shall submit to Owner on the tenth (10<sup>th</sup>) day of each month, beginning with the first month after the Date of Commencement, Design-Build Firm's Application for Payment in accordance with Article 6 of the General Conditions of Contract. Application for Payment shall be based upon the amount of Work done or completed during the payment period which is defined as the first day of the preceding calendar month through the last day of the preceding calendar month. Owner's Representative will review the Application for Payment to determine whether the quantity and quality of the Work is as represented in the Application for Payment and thereafter confirm to the Owner the amount properly owing to Design-Build Firm.

7.1.2 Upon confirmation of validity and accuracy of the Application for Payment, payments will be made in accordance with the Local Government Prompt Payment Act (Sections 218.70-218.80, Florida Statutes) less such amounts, if any, otherwise owing by the Design-Build Firm to the Owner, or which Owner shall have the right to withhold in accordance with.

7.1.3 If Design-Build Firm's Fee under Section 6.2.1 hereof is a fixed amount, the amount of Design-Build Firm's Fee to be included in Design-Build Firm's monthly Application for Payment

and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Build Firm's Fee.

## **7.2 Retainage on Progress Payments.**

**7.2.1** Owner will retain five percent (5%) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Build Firm and Design-Build Firm is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Build Firm's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

**7.2.2** Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Build Firm all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

**7.3 Final Payment.** Design-Build Firm shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Build Firm's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) days after Owner's receipt of the Final Application for Payment, provided that Design-Build Firm has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

**7.4 Interest.** Payments due and unpaid by Owner to Design-Build Firm shall bear interest in accordance with the provisions of the Florida Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes).

**7.5 Record Keeping and Finance Controls.** Design-Build Firm acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Build Firm shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, Design-Build Firm's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Build Firm shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Build Firm's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Build Firm as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

## **Article 8** **Termination for Convenience**

**8.1** Upon thirty (30) days' written notice to Design-Build Firm, Owner may, for its convenience and without cause, elect to terminate this Agreement. An equitable adjustment in the compensation to be paid to Design-Build Firm shall be made based upon the cost for completed Work, Work in progress, and the substantiated, reasonable and actually incurred costs associated with termination, including demobilization costs and amounts due in settlement of terminated contracts with Design Subconsultants and Sub-contractors. No amount shall be allowed for anticipated profit or unperformed Work.

8.3 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 hereof. Such rights may not be transferred or assigned to others without Design-Build Firm's express written consent and such third parties' agreement to the terms of Article 4.

## **Article 9** **Representatives of the Parties**

### 9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Greg Caldwell**  
**Public Works Director**  
**2750 Industry Center Road**  
**St. Augustine, FL 32084**  
[gcaldwell@sjcfl.us](mailto:gcaldwell@sjcfl.us)  
**(904) 209-0132**

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**Doug Tarbox, CIP Manager**  
**SJC Public Works Department**  
**2750 Industry Center Road**  
**St. Augustine, FL 32084**  
[dtarbox@sjcfl.us](mailto:dtarbox@sjcfl.us)  
**(904) 209-0124**

### 9.2 Design-Build Firm's Representatives.

9.2.1 Design-Build Firm designates the individual listed below as its Senior Representative ("Design-Build Firm's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

**David Nardon**  
**Director of Alternative Delivery**  
**7072 Business Park Blvd N**  
**Jacksonville, FL 32256**  
[dnardon@superiorconstruction.com](mailto:dnardon@superiorconstruction.com)  
**(443) 604-6582**

9.2.2 Design-Build Firm designates the individual listed below as its Design-Build Firm's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*



## **Article 10**

### **Bonds and Insurance**

**10.1 Insurance.** Design-Build Firm and Owner shall procure the insurance coverages set forth in Article 5 of the General Conditions of Contract.

**10.2 Bonds and Other Performance Security.** The Design-Build Firm shall execute and furnish to the Owner, a recorded Payment and Performance Bond in accordance with the provisions of Section 255.05 and 287.0935, Florida Statutes, in an amount no less than the Contract Price. Such Payment and Performance Bond shall be conditioned upon the successful completion of all the work, labor, services, equipment and materials to be provided and furnished hereunder, and the payment of all subcontractors, materialmen, and laborers. Said bond shall be subject to the approval of the Board of County Commissioners of St. Johns County, Florida. In accordance with Section 255.05, Florida Statutes, the Owner may not make a payment to Design-Build Firm until Design-Build Firm has provided the Owner the recorded bond(s).

## **Article 11**

### **Other Provisions**

**11.1 Other provisions, if any, are as follows:** *(Insert any additional provisions)*

**11.1.1 Entire Agreement.** The Contract Documents enumerated in Article 1.3 herein forms the entire agreement and understanding between the Owner and Design-Build Firm, supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

**11.1.2 Truth-In-Negotiation Certificate.** The signing of this Agreement by the Design-Build Firm shall act as the execution of a truth-in-negotiation certificate certifying that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current as of the date of this Agreement. The original Contract Price and any additions thereto shall be adjusted to exclude any significant sums by which the Owner determines the Contract Price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

**11.1.3 Arrears.** The Design-Build Firm shall not pledge the Owner's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The Design-Build Firm warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

**11.1.4 Federal and State Tax.** In accordance with Local, State, and Federal law, the Owner is exempt from the payment of Sales and Use Taxes. The Owner shall provide a tax exemption certificate to the Design-Build Firm upon request. The Design-Build Firm shall not be exempt from the payment of any or all applicable taxes in its performance under this Agreement. It is expressly understood by the Owner and by the Design-Build Firm that the Design-Build Firm shall not be authorized to use the Owner's Tax Exemption status in any manner.

**11.1.4.1** The Design-Build Firm shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from Design-Build Firm's performance under this Agreement.

**11.1.5 Availability of Funds.** The Owner's obligations under this Agreement are contingent upon the lawful appropriation of sufficient funds, for that purpose, by the St. Johns County Board of Commissioners ("Board"). Pursuant to the requirements of Section 129.07, Florida Statutes, payment made under this Agreement shall not exceed the amount appropriated in the Owner's

budget for such purpose in that fiscal year. Nothing in this Agreement shall create any obligation on the part of the Board to appropriate such funds for the payment of services provided under this Agreement during any given County fiscal year. Moreover, it is expressly noted that the Design-Build Firm cannot demand that the Owner provide any such funds in any given County Fiscal Year.

**11.1.6 Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Owner and Design-Build Firm and no right or cause of action shall accrue to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity other than the Owner and Design-Build Firm, any right, remedy, or Claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon Owner and Design-Build Firm.

**11.1.7 Remedies.** No remedy herein conferred upon any Party is intended to be exclusive, and any/all remedies shall be cumulative and shall be in addition to any/all other remedies given hereunder or hereafter existing by law or in equity or by statute or otherwise. No single or partial exercise by any Party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof. In any action brought by either Party for the enforcement of the obligations of the other Party, the prevailing Party shall be entitled to recover reasonable attorneys' fees.

**11.1.8 Conflict of Interest.** The Design-Build Firm represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The Design-Build Firm further represents that no person having any interest shall be employed for said performance.

**11.1.8.1** The Design-Build Firm shall promptly notify the Owner, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the Design-Build Firm's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Design-Build Firm may undertake and request an opinion of the Owner, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by the Design-Build Firm.

**11.1.8.2** The Owner agrees to notify the Design-Build Firm of its opinion by certified mail within thirty (30) calendar days of receipt of notification by the Design-Build Firm. If, in the opinion of the Owner, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Design-Build Firm, the Owner shall so state in the notification and the Design-Build Firm shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the Owner by the Design-Build Firm under the terms of this Agreement.

**11.1.9 Independent Relationship.** The Design-Build Firm is, and shall be, in the performance of all work services and activities under this Agreement, an independent consultant, and not an employee, agent, or servant of the Owner. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to the Design-Build Firm's sole direction, supervision, and control.

**11.1.9.1** The Design-Build Firm shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Design-Build Firm's relationship and the relationship of its employees to the Owner shall be that of an independent consultant and not as employees or agents of the Owner. The Design-Build Firm does not have the power or authority to bind the Owner in any promise, agreement or representation other than specifically provided for in this Agreement.

**11.1.10 Contingent Fees.** Pursuant to Section 287.055(6), Florida Statutes, the Design-Build Firm warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Design-Build Firm to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Design-Build Firm, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. Violation of this Article shall be grounds for termination of this Agreement. If this Agreement is terminated for violation of this Article, the Owner may deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or other consideration.

**11.1.11 Access and Audits.** The Design-Build Firm shall maintain adequate records to justify all charges, expenses and costs incurred in performing the work for at least six (6) years after completion of the project. The Owner shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Owner's cost, upon fourteen (14) consecutive calendar days' written notice, provided that in the event the Owner requires access to such books records, and documents in order to comply with an audit conducted by a state or federal agency, and such audit requires a response period of less than fourteen (14) calendar days, the Design-Build Firm shall provide access to said books, records, and documents within the time required by the state or federal audit.

**11.1.12 Employment Eligibility and Mandatory Use of E-Verify.** As a condition precedent to entering into this Agreement, and in accordance with section 448.095, Florida Statutes., Design-Build Firm and its subconsultants and subcontractors shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after January 1, 2021.

- a. Design-Build Firm shall require each of its subcontractors to provide Design-Build Firm with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Design-Build Firm shall maintain a copy of such affidavit for the duration of this Agreement.
- b. The Owner, Design-Build Firm, or any subconsultant or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated section 448.09(1), F.S. or these provisions regarding employment eligibility shall terminate the contract with the person or entity.
- c. The Owner, upon good faith belief that a subcontractor knowingly violated these provisions regarding employment eligibility, but Design-Build Firm otherwise complied, shall promptly notify Design-Build Firm and Design-Build Firm shall immediately terminate the contract with the subcontractor.
- d. The Owner and Design-Build Firm hereby acknowledge and mutually agree that, a contract terminated pursuant to these provisions regarding employment eligibility is not a breach of contract and may not be considered as such. Any contract terminated pursuant to these provisions regarding employment eligibility may be challenged in accordance with section 448.095(2)(d), F.S.
- e. Design-Build Firm acknowledges that, in the event that the Owner terminates this Agreement for Design-Build Firm's breach of these provisions regarding employment eligibility, then Design-Build Firm may not be awarded a public contract for a least one (1) year after such termination. Design-Build Firm further acknowledges that Design-Build Firm is liable for any additional costs incurred by the Owner as a result of the County's termination of this Agreement for breach of these provisions regarding employment eligibility.
- f. Design-Build Firm shall incorporate in all subcontracts made pursuant to the awarded Agreement the provisions contained herein regarding employment eligibility.

**11.1.13 Notices.** All required notices related to the project, under the Contract Documents, shall be sent, by certified mail, return receipt requested, with a copy via email to:

Owner: St. Johns County, FL  
Purchasing Division  
Attn: Assistant Director, Purchasing & Contracts  
500 San Sebastian View  
St. Augustine, FL 32084  
Email: jlocklear@sjcf.us

with a Copy to: St. Johns County, FL  
Office of the County Attorney  
Attn: County Attorney  
500 San Sebastian View  
St. Augustine, FL 32084  
Email: dmigut@sjcf.us

Design-Build Firm: SUPERIOR Construction Company Southeast, LLC  
Attn: Brian McGarity  
7072 Business Park Blvd. N.  
Jacksonville, FL 32256  
Email: bmcgarity@superiorconstruction.com

**11.1.14 Public Records.** The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

11.1.14.1 In accordance with Florida law, to the extent that Design-Build Firm's performance under this Agreement constitutes an act on behalf of the Owner, Design-Build Firm shall comply with all requirements of Florida's public records law. Specifically, if Design-Build Firm is expressly authorized, and acts on behalf of the Owner under this Agreement, Design-Build Firm shall:

- i. Keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the Services;
- ii. Upon request from the Owner's custodian of public records, provide the Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- iii. Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if the Design-Build Firm does not transfer the records to the Owner; and
- iv. Upon completion of this Agreement, transfer, at no cost, to the Owner all public records in possession of the Design-Build Firm or keep and maintain public records required by the Owner to perform the Work.
- v. If the Design-Build Firm transfers all public records to the Owner upon completion of this Agreement, the Design-Build Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If



the Design-Build Firm keeps and maintains public records upon completion of this Agreement, the Design-Build Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Owner, upon request from the Owner's custodian of public records, in a format that is compatible with the Owner's information technology systems.

- vi. Failure by the Design-Build Firm to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by the Owner.

**IF THE DESIGN-BUILD FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 500 San Sebastian View, St. Augustine, FL 32084, Phone: (904) 209-0805; Email: [publicrecords@sjcfl.us](mailto:publicrecords@sjcfl.us)**

**11.1.15 Use of Owner Logo.** Pursuant to, and consistent with St. Johns County Ordinance 92-2 and St. Johns County Administrative Policy 101.3, the Design-Build Firm may not manufacture, use, display, or otherwise use any facsimile or reproduction of the Owner's Seal/Logo without express written approval of the Board.

**11.1.16 Notice to Sureties.** The Design-Build Firm shall notify and obtain the timely consent and approval of Design-Build Firm's surety with reference to all Change Orders if such notice, consent or approval is required by Design-Build Firm's surety or by law. Design-Build Firm represents and warrants to Owner that Design-Build Firm is solely liable and responsible to so notify and obtain any such consent or approval.

**11.1.17 Authority to Execute.** Each party represents that it has the lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative.

**11.1.18 Waiver; Course of Dealing.** The delay or failure by the Owner to exercise or enforce any of its rights or remedies under this Agreement shall not constitute or be deemed a waiver of the Owner's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the Parties to this Agreement after the Effective Date shall not be deemed a waiver or modification of this Agreement.

**11.1.19 No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance and obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

**11.1.20 Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original document, and all of which together shall constitute a single instrument. The Parties may deliver executed counterparts by e-mail transmission, which shall be binding. In the event this Agreement is executed through a Owner-approved electronic signature or online digital signature service (such as DocuSign), such execution shall be valid, effective and binding upon the Party so executing. Execution and delivery of an executed counterpart of this Agreement and/or a signature page of this Agreement by electronic image scan transmission (such as a "pdf" file) or through a Owner approved electronic signature service will be valid and effective as delivery of a manually executed counterpart of this Agreement.



**11.1.21 Equal Employment Opportunity.** During the performance of this Agreement, Design-Build Firm agrees as follows:

11.1.21.1 Design-Build Firm will not discriminate against any employee or applicant for employment because of race, color, religion, disability, age, sex (including sexual orientation and gender identity/expression), national origin (including limited English proficiency), marital status, or familial status. Design-Build Firm will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, genetic information or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Design-Build Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

11.1.21.2 Design-Build Firm will, in all solicitations or advertisements for employees placed for, by, or on behalf of Design-Build Firm, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information.

11.1.21.3 Design-Build Firm will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Design-Build Firm's legal duty to furnish information.

11.1.21.4 Design-Build Firm will send to each labor union or representatives of workers with which it has a collective bargaining Contract or other contract or understanding, a notice to be provided by the County, advising the labor union or workers' representative of Design-Build Firm's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

11.1.21.5 Design-Build Firm will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

11.1.21.6 Design-Build Firm will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the County and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

11.1.21.7 In the event of Design-Build Firm's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and Design-Build Firm may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

11.1.21.8 Design-Build Firm will include the provisions of paragraphs 13.15.1 through 13.15.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor, subconsultant or vendor. Design-Build Firm will take such action with respect to any subcontractor or vendor as may be directed to the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Design-Build Firm becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Design-Build Firm may request the United States to enter into such litigation to protect the interest of the United States.

**11.1.22 Anti-Bribery**

Design-Build Firm and its Subcontractors shall at all times during the term of this Contract comply with all anti-bribery and corruption laws that are applicable to the performance of this Contract. Design-Build Firm represents that it has not, directly or indirectly, taken any action which would cause it to be in violation of Chapter 838 of the Florida Statutes. Design-Build Firm shall immediately notify the County of any violation (or alleged violation) of this provision.

**11.1.23 Convicted and Discriminatory Vendor Lists, and Scrutinized Companies**

Design-Build Firm warrants that neither it nor any Subcontractor is currently on the convicted vendor list or the discriminatory vendor list maintained pursuant to Sections 287.133 and 287.134 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Design-Build Firm shall immediately notify the County in writing if its ability to perform is compromised in any manner during the term of the Contract.

11.1.23.1 Section 287.135 of the Florida Statutes prohibits agencies from contracting with companies for goods or services that are on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel, and from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations in Cuba or Syria. The lists are created pursuant to §215.473 and §215.4725, F.S. By execution of this Contract, Design-Build Firm certifies that it is not listed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria, and understands that pursuant to §287.135, F.S., the submission of a false certification may subject Design-Build Firm to civil penalties, attorney's fees, and/or costs. In accordance with §287.135, F.S., the County may terminate this Contract if a false certification has been made, or the Design-Build Firm is subsequently placed on any of these lists, or engages in a boycott of Israel or is engaged in business operations in Cuba or Syria.

In executing this Agreement, Owner and Design-Build Firm each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

**OWNER:**

St. Johns County, FL  
*(Name of Owner)*

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

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Title)*

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

**DESIGN-BUILD FIRM:**

SUPERIOR Construction Company Southeast, LLC  
*(Name of Design-Build Firm)*

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

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Title)*

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

**Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.**

Standard Form of  
General Conditions of  
Contract Between Owner  
and Design-Build Firm

**Document No. 535**

Second Edition, 2010

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Washington, D.C.



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# Article 1

## General

### 1.1 Mutual Obligations

**1.1.1** *Owner and Design-Build Firm* commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

### 1.2 Basic Definitions

**1.2.1** *Agreement* refers to the executed contract between Owner and Design-Build Firm under DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Build Firm - Cost Plus Fee with an Option for a Guaranteed Maximum Price* (2010 Edition).

**1.2.2** *Basis of Design Document* is as follows: For DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Build Firm - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, the Basis of Design Document is the Pavement Design dated October 20, 2021, developed by ARCADIS.

**1.2.3** *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Build Firm consistent with the Basis of Design Document unless a deviation from the Basis of Design Document is determined as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

**1.2.4** *Contract Documents* are the documents that shall govern the completion of the Project, as described in Article 2 of the Agreement.

**1.2.5** *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

**1.2.5** *Design-Build Team* is comprised of the Design-Build Firm, the Design Consultant, and key Subcontractors identified by the Design-Build Firm.

**1.2.6** *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Build Firm, but is retained by Design-Build Firm, or employed or retained by anyone under contract with Design-Build Firm, to furnish design services required under the Contract Documents.

**1.2.7** *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2 of these General Conditions of Contract.

**1.2.8** *Force Majeure Events* are those events that are not reasonably foreseeable and are beyond the control of both Design-Build Firm and Owner, including events of war, terrorist attacks, labor strikes, floods, earthquakes, epidemics/pandemics, riots, adverse weather conditions not reasonably anticipated, and other acts of God.

**1.2.9** *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Build Firm* (2010 Edition) as revised and accepted by both Parties.

**1.2.10** *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Build Firm Cost Plus Fee With an Option for a Guaranteed Maximum Price*, which exhibit will have been agreed upon by Owner and Design-Build Firm prior to the execution of the Agreement.

**1.2.11** *GMP Proposal* means that proposal developed by Design-Build Firm in accordance with

Section 6.6 of DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Build Firm - Cost Plus Fee With an Option for a Guaranteed Maximum Price*.

**1.2.12** *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

**1.2.13** *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

**1.2.14** *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Build Firm's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

**1.2.15** *Site* is the land or premises on which the Project is located.

**1.2.16** *Subcontractor* is any person or entity retained by Design-Build Firm as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

**1.2.17** *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

**1.2.18** *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project for its intended purposes.

**1.2.19** *Work* is comprised of all Design-Build Firm's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

## **Article 2**

### **Design-Build Firm's Services and Responsibilities**

#### **2.1 General Services.**

**2.1.1** Design-Build Firm's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Build Firm's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Build Firm. Design-Build Firm's Representative may be replaced only with the mutual agreement of Owner and Design-Build Firm.

**2.1.2** Design-Build Firm shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Agreement; and (v) other items that require resolution so as not to jeopardize Design-Build Firm's ability to complete the Work for the Contract Price and within the Contract Time(s).

**2.1.3** Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Build Firm shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for



the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Build Firm to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Build Firm of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Build Firm of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

**2.1.4** The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

**2.2 Design Professional Services.**

Design-Build Firm shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Build Firm, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Build Firm to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant or any firms/individuals sub-contracted by the Design Consultant.

**2.3 Standard of Care for Design Professional Services.**

The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession, having experience with projects similar in scope and complexity and at a similar time and locality.

**2.4 Design Development Services.**

**2.4.1** Design-Build Firm and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Build Firm and Owner shall meet and confer about the submissions, with Design-Build Firm identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Build Firm and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Build Firm's schedule.

**2.4.2** Design-Build Firm shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Build Firm shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

**2.4.3** Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval

of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Build Firm to Owner.

**2.4.4** To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Build Firm may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

## **2.5 Legal Requirements.**

**2.5.1** Design-Build Firm shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

**2.5.2** Design-Build Firm may request equitable and reasonable adjustments to the Contract Price and/or Contract Time(s) for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work. Such effects may include, but is not limited to revisions Design-Build Firm is required to make to the Construction Documents because of changes in Legal Requirements.

## **2.6 Government Approvals and Permits.**

**2.6.1** Design-Build Firm shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

**2.6.2** Design-Build Firm shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

## **2.7 Design-Build Firm's Construction Phase Services.**

**2.7.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Build Firm shall provide through itself or Sub-contractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Build Firm to complete construction of the Project consistent with the Contract Documents.

**2.7.2** Design-Build Firm shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Build Firm shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

**2.7.3** Design-Build Firm shall employ only Sub-contractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Build Firm's selection of any Sub-contractor, and Design-Build Firm must make every reasonable effort to replace the Sub-contractor at no increase to Contract Price and/or Contract Time, and must demonstrate the efforts made as backup to any request for an adjustment to Contract Price and/or Contract Time due to the change of any Sub-contractor.

**2.7.4** Design-Build Firm assumes responsibility to Owner for the proper performance of the Work of Sub-contractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

**2.7.5** Design-Build Firm shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Build Firm agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.



**2.7.6** Design-Build Firm shall keep the Site reasonably neat, secure and orderly during performance of the Work, and shall remove all waste, rubbish, and construction debris from the Site as they accumulate to permit Design-Build Firm to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or portion(s) thereof, Design-Build Firm shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work to permit Owner to occupy the Project or a portion of the Project for its intended use.

## **2.8 Design-Build Firm's Responsibility for Environment, Safety and Health**

**2.8.1** Design-Build Firm is solely and exclusively responsible for performing the Work in a safe manner so as to avoid risk and prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Build Firm assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Build Firm shall, prior to commencing construction, designate in writing, a Safety Representative with the necessary qualifications and experience, who shall be responsible for implementation of all safety procedures, including OSHA, prevention of accidents, authority for monitoring safety of the Work, authority to correct unsafe conditions or acts by its employees or Sub-contractors, the ability to oversee compliance with and address environmental requirements, and coordinate with other on-site contractors and sub-contractors on safety and environmental matters required for the Work. Unless otherwise required by the Contract Documents, Design-Build Firm's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Build Firm's personnel, Subcontractors and others as applicable.

**2.8.2** Design-Build Firm and Subcontractors shall comply with all Legal Requirements relating to safety of persons or property, or their protection from damage, injury or loss, including compliance with applicable permits, Contract Documents, Construction Documents and approvals. Design-Build Firm shall maintain accident and injury records in accordance with all Legal Requirements, and shall provide such records to the Owner upon request. Design-Build Firm will immediately report in writing any injury, death, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

**2.8.3** Design-Build Firm shall provide or cause to be provided any and all applicable training, and furnish all safety construction equipment/tools, including OSHA compliant and ANSI certified personal protective equipment as appropriate and necessary for the performance of the Work. Design-Build Firm's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

**2.8.4** In the event damages to individuals, property and/or facilities are caused by the Design-Build Firm or anyone employed or subcontracted by the Design-Build Firm, on or adjacent to the Project Site, Design-Build Firm shall be responsible for correcting, repairing, and/or restoring any such damages, at no additional cost to the Owner.

**2.8.5** By signing the Agreement, Design-Build Firm agrees to maintain a healthy and productive workforce and safe working conditions through compliance with the Drug-Free Workplace Act (Chapter 112, Florida Statutes). Design-Build Firm's personnel shall not possess, use, manufacture, distribute, or be under the influence of any alcoholic beverages, and/or illegal drugs and/or any other "Drug" as such term is defined in the Drug-Free Workplace Act, while on the Site, or as otherwise during performance of the Work.



**2.8.6** Design-Build Firm warrants that all materials, equipment, and services delivered or provided to the Owner shall conform in all respects to the standards set forth in the Occupational Safety and Health Act (OSHA) of 1970 as amended. Design-Build Firm further certifies that if material, equipment and services delivered or provided to the Owner are subsequently found to be deficient in any OSHA requirement in effect on date of delivery or service fulfillment date, all costs necessary to bring the material equipment, and/or service into compliance with the aforementioned requirements shall be borne by the Design-Build Firm.

**2.8.7** The Federal "Right to Know and Understand" Regulation (also known as the Hazard Communication / Globally Harmonized System of Classification and Labeling of Chemicals (GHS) implemented by OSHA requires employers to inform their employees of any toxic substances to which they may be exposed in the workplace, and to provide training in safe chemical storage, labeling, handling practices and emergency procedures.

Accordingly, Design-Build Firm is required to provide completed Safety Data Sheets (SDS) for each hazardous substance provided to the Owner under the Agreement. This includes hazardous substances that are not directly included in the Contract Documents, but are included in the goods or services provided in the Work. The SDS For each substance must be sent to the Owner's Representative and must also be sent to:

St. Johns County, a political subdivision of the State of Florida  
500 San Sebastian View  
St. Augustine, FL 32084  
ATTN: Risk Management Department

In the event that hazardous material is improperly handled or stored by Design-Build Firm its Sub-contractors, any sub-subcontractors, or any employee or agent of the aforementioned which results in contamination of the Project, Design-Build Firm shall immediately notify the Owner's Representative and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at Design-Build Firm's sole cost and expense. Further, Design-Build Firm shall indemnify and hold harmless the County from any and all costs, expenses, actions, or liability whatsoever resulting from such contamination and/or remedial activities. The indemnity provisions of this section shall survive the expiration or earlier termination of the Agreement.

## **2.9 Design-Build Firm's Warranty.**

**2.9.1** Design-Build Firm warrants to the Owner that all labor furnished to progress the Work shall be competent to perform the tasks undertaken and that the product of such labor shall yield only Work that complies with the Contract Documents, and aligns with industry standards.

**2.9.2** Design-Build Firm warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Build Firm's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner.

**2.9.3** Design-Build Firm warrants all Work, including all completed materials, equipment, systems, and structures comprising the Project shall be free of defects in design, materials, and workmanship for a period of one year (or the period of time in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) from and after the date of Substantial Completion.

**2.9.4** Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Build Firm will provide Owner with all manufacturers' warranties upon Substantial Completion.

## **2.10 Correction of Defective Work.**

**2.10.1** Design-Build Firm agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one (1) calendar year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

**2.10.2** Design-Build Firm shall, within seven (7) days of receipt of written notice from Owner of any defect in the Work or non-conformance of the Work, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. For any Work so corrected, Design-Build Firm's Warranty, provided in Section 2.9 hereof, shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected Work, but in no case shall be greater than two years from the date of Substantial Completion. If Design-Build Firm fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Build Firm with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Build Firm shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable. In addition, Design-Build Firm shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by the Design-Build Firm in the course of correcting any defective or non-conforming Work.

**2.10.3** The one-year period referenced in Section 2.10.1 above applies only to Design-Build Firm's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Build Firm's other obligations under the Contract Documents.

**2.10.4** Design-Build Firm shall perform such tests as the Owner may require to verify that any corrective actions, including, without limitations, redesign, repairs, and replacements comply with the requirements of the Contract Documents. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of the Design-Build Firm.

**2.10.5** All warranties and guarantees of Sub-contractors, suppliers, and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by the Design-Build Firm for the benefit of the Owner, regardless of whether or not such warranties and guarantees have been transferred or assigned to the Owner by separate contract and Design-Build Firm agrees to enforce such warranties and guarantees, if necessary, on behalf of the Owner.

## **2.11 Owner May Accept Defective or Nonconforming Work**

**2.11.1** If the Owner chooses to accept defective or nonconforming Work, the Owner may do so. In such events, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Work had it not been constructed in such manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, Design-Build Firm shall pay the Owner such remaining compensation for accepting defective or nonconforming Work.

## **Article 3** **Owner's Services and Responsibilities**

### **3.1 Duty to Cooperate.**



**3.1.1** Owner shall, throughout the performance of the Work, cooperate with Design-Build Firm and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Build Firm's timely and efficient performance of the Work and so as not to delay or interfere with Design-Build Firm's performance of its obligations under the Contract Documents.

**3.1.2** Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Build Firm's schedule.

**3.1.3** Owner shall give Design-Build Firm timely notice of any Work that Owner notices to be defective or non-conforming with the Contract Documents.

## **3.2 Furnishing of Services and Information.**

**3.2.1** Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Build Firm's information and use the following, all of which Design-Build Firm is entitled to rely upon in performing the Work:

**3.2.1.1** Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

**3.2.1.2** Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

**3.2.1.3** Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Build Firm to perform the Work;

**3.2.1.4** A legal description of the Site;

**3.2.1.5** To the extent available, record drawings of any existing structures at the Site; and

**3.2.1.6** To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

**3.2.2** Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Build Firm to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

## **3.3 Financial Information.**

**3.3.1** At Owner's request, Design-Build Firm shall promptly furnish reasonable evidence satisfactory to Owner that Design-Build Firm has adequate funds and resources available to fulfill all of Design-Build Firm's obligations under the Contract Documents. If Design-Build Firm fails to furnish such financial information in a timely manner, Owner may stop Work under Section 11.2.1 hereof or exercise any other right permitted under the Contract Documents.

**3.3.2** At Design-Build Firm's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Build Firm that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Build Firm may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

**3.3.2** Design-Build Firm shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Build Firm shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Build Firm to

assume obligations or responsibilities greater than those existing obligations Design-Build Firm has under the Contract Documents.

#### **3.4 Owner's Representative.**

**3.4.1** Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Build Firm to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Build Firm with prompt notice if it observes any failure on the part of Design-Build Firm to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Build Firm and shall be vested with the authority to act on behalf of Owner.

#### **3.5 Government Approvals and Permits.**

**3.5.1** Design-Build Firm shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the Work.

**3.5.2** Owner shall provide reasonable assistance to Design-Build Firm in obtaining those permits, approvals and licenses that are Design-Build Firm's responsibility.

#### **3.6 Owner's Separate Contractors.**

**3.6.1** Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Design-Build Firm shall reasonably cooperate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with Design-Build Firm in order to enable Design-Build Firm to timely complete the Work consistent with the Contract Documents.

### **Article 4**

#### **Hazardous Conditions and Differing Site Conditions**

##### **4.1 Hazardous Conditions.**

**4.1.1** Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Build Firm is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Build Firm will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

**4.1.2** Within three (3) calendar days of reporting the discovery of any hazardous materials, Design-Build Firm shall submit to Owner a proposal for all work associated with all necessary measures for remediation of the hazardous materials, including collection, removal, transportation, and disposal of the hazardous materials. Such necessary measures shall include Design-Build Firm retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that must be taken either to remove the Hazardous Conditions or render the Hazardous Conditions harmless. In the event the Owner elects to accept the proposal submitted by the Design-Build Firm, the Owner shall issue a Change Order for the additional work. Any and all mitigation efforts shall be performed in accordance with any and all applicable regulations, codes, rules, laws, ordinances, and policies. It is expressly understood that the Owner is under no obligation to accept the Design-Build Firm's submitted proposal, or to utilize the Design-Build Firm to remediate any hazardous materials.

**4.1.3** In the event the Owner elects to utilize a third-party to remediate any discovered hazardous materials, the Owner shall coordinate with the Design-Build Firm for all activities related to the remediation efforts. Design-Build Firm agrees to fully cooperate with the County



and any third-party in coordination of all remediation efforts. In the event the Owner utilizes a third-party for remediation of any discovered hazardous materials, Design-Build Firm shall not be responsible for any remediation efforts, including collection, removal, transportation and disposal, undertaken by the third-party.

**4.1.4** Design-Build Firm shall be obligated to resume Work at the affected area of the Project only after written certification is provided by Design-Build Firm's or Owner's expert provides that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

**4.1.5** Design-Build Firm may request a reasonable adjustment to its Contract Price and/or Contract Time(s) for impacts to the Design-Build Firm's cost and/or time of performance due to the presence of Hazardous Conditions.

**4.1.6** To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Build Firm, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

**4.1.7** Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Build Firm, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Build Firm shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Build Firm, Subcontractors or anyone for whose acts they may be liable.

## **4.2 Differing Site Conditions.**

**4.2.1** Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions."

**4.2.2** Upon encountering a Differing Site Condition, Design-Build Firm shall provide prompt written notice to Owner of such condition, which notice shall not be later than three (3) days after such condition has been encountered. Design-Build Firm shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered. The Owner's Representative shall within two (2) business days after receipt of Design-Build Firm's written notice, investigate the site conditions identified by the Design-Build Firm. If, in the sole opinion of the Owner's Representative, the conditions do materially so differ and cause an increase or decrease in Design-Build Firm's cost of, or the time required for, the performance of any portion of the Work, whether or not charges as a result of the conditions, the Design-Build Firm may submit a proposal for an equitable adjustment to the Contract Price and/or Time(s). If Owner's Representative and Design-Build Firm cannot agree on an adjustment in the Contract Price and/or Time, the adjustment shall be referred to the Owner's Assistant Director of Purchasing and Contracts for determination in accordance with Article 10 of these General Conditions of Contract. No request by Design-Build Firm for an equitable adjustment under this provision shall be allowed unless Design-Build Firm has given written notice to the Owner's Representative in strict accordance with the provisions of this Article. **NO REQUEST FOR AN EQUITABLE ADJUSTMENT OR CHANGE TO THE CONTRACT PRICE OR CONTRACT TIMES FOR DIFFERING SITE CONDITIONS SHALL BE ALLOWED IF MADE AFTER THE DATE CERTIFIED BY THE OWNER AS THE DATE OF SUBSTANTIAL COMPLETION.** Failure by the Design-Build Firm to provide written notice as provided in this Article shall constitute a waiver by Design-Build Firm of any Claim arising out of or relating to such concealed or differing condition.



## **Article 5**

### **Insurance and Bonds**

#### **5.1 Owner's Property Insurance.**

**5.1.1** Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available, and shall include as additional insureds the interests of Owner, Design-Build Firm, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Build Firm's Application for Payment and approved by Owner. The Owner is responsible for the payment of any deductibles under the insurance required by this Section.

**5.1.2** Prior to Design-Build Firm commencing any Work, Owner shall provide Design-Build Firm with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Build Firm has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Build Firm. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Build Firm with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

**5.1.3** Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Build Firm and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

**5.1.4** Owner and Design-Build Firm waive against each other and Owner's separate contractors, Design Consultants, Sub-contractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Build Firm and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Sub-contractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

#### **5.2 Design-Build Firm's Insurance Requirements**

**5.2.1** All insurance policies shall be satisfactory to the Owner and be issued by companies authorized and duly licensed to transact business in the State of Florida. Owner shall furnish proof of insurance to the Owner prior to execution of this Agreement. No Work shall commence under this Agreement until Design-Build Firm has obtained all insurance coverages required under this section. Certificates of insurance shall clearly indicate Design-Build Firm has obtained insurance of the type, amount, and classification as required by this Agreement. Required insurance coverage shall be maintained in force, including coverage for Additional Insureds, until Final Completion of all Work including warranty work.

**5.2.2** No less than ten (10) business days written notice shall be provided to Owner prior to cancellation, non-renewal, or any material change of required insurance policies. Yearly renewal certificates shall be provided to Owner within thirty (30) days of expiration of the current policy.

**5.2.3** The types and amounts of insurance required under these General Conditions of Contract do not in any way limit the liability of Design-Build Firm, including under any warranty or indemnity provision of the Agreement or any other obligation whatsoever Design-Build Firm may have to the Owner or others. Nothing in the Agreement limits Design-Build Firm to the minimum required insurance coverages provided in this Article.

**5.2.4** The term "Additional Insured", as used herein, shall mean the Owner, its elected officials, officers, employees, agents, and representatives. Certificates of insurance shall specifically name the Owner as Additional Insured for all policies of insurance except Workers' Compensation and Professional Liability. A copy of the endorsement showing the required coverages must accompany the certificate of insurance.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida  
San Sebastian View  
St. Augustine, FL 32084  
ATTN: Purchasing Division

**5.2.5** Design-Build Firm shall procure and maintain throughout the duration of the Agreement, adequate Workers' Compensation insurance and Employer's Liability in at least such amounts as is required by law for all of its employees per Florida Statute 440.02.

**5.2.6** Design-Build Firm shall procure and maintain throughout the duration of the Agreement, Commercial General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, including bodily injury (including wrongful death), property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all Claims that may arise from the services and/or operations completed under the Agreement, whether such services or operations are by Design-Build Firm or anyone directly or indirectly employed by them. Such insurance(s) shall also be primary and non-contributory with regard to insurance carried by the Additional Insureds.

**5.2.7** Design-Build Firm shall procure and maintain throughout the duration of the Agreement, Commercial Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability and insuring liability arising out of or in any way related directly or indirectly to the ownership, maintenance or use of any owned, non-owned, or rented/hired automobiles.

**5.2.8** Design-Build Firm shall procure and maintain throughout the duration of the Agreement, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000. Design-Build Firm shall procure and maintain a four (4) year tail coverage, upon cancellation, or inability to continue the Professional Liability Insurance required herein. Design-Build Firm shall also require any and all licensed Design Sub-consultants to carry professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under the Agreement.

**5.2.9** Prior to commencing construction work, Design-Build Firm shall procure and maintain Excess Liability in an amount not less than \$1,000,000 per occurrence and \$1,000,000 per aggregate limit, applying on a primary, non-contributory basis irrespective of any other insurance, whether collectible or not, and applying in excess of the underlying Employers Liability, Commercial General Liability, and Commercial Automobile Liability insurance coverages. This policy shall be written on an "occurrence" basis and shall be endorsed to name the County as an "Additional Insured".

**5.2.10** The required insurance limits identified in Sections 5.2.6 and 5.2.7 above may be satisfied by a combination of a primary policy and/or Umbrella or Excess Liability Insurance policy. Design-Build Firm shall require each lower-tier sub-contractor to comply with all insurance requirements appropriate for its scope of work, and any deficiency shall not relieve Design-Build Firm of its responsibility herein. Upon written request, Design-Build Firm shall provide Owner with copies of any lower-tier sub-contractor Certificates of Insurance.

**5.2.11** Providing and maintaining adequate insurance coverage is a material obligation of Design-Build Firm. Owner has no obligation or duty to advise Design-Build Firm of any non-



compliance with the insurance requirements contained in this Article. If Design-Build Firm fails to obtain and maintain all of the insurance coverages required herein, Design-Build Firm shall indemnify and hold harmless the Additional Insureds from and against any and all Claims that would have been covered by such insurance had Design-Build Firm complied with its obligation herein.

**5.2.12** Owner reserves the right to adjust the above insurance requirements or require additional insurance coverages to address other insurable hazards.

### **5.3 Bonds and Other Performance Security.**

**5.2.1** If Owner requires Design-Build Firm to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

**5.2.2** All bonds furnished by Design-Build Firm shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

## **Article 6** **Payment**

### **6.1 Schedule of Values.**

**6.1.1** Design-Build Firm's proposal for the Work to be performed under the Agreement shall include a Schedule of Values, which shall (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Build Firm throughout the Work.

**6.1.2** Design-Build Firm shall submit all Applications for Payment in accordance with the approved Schedule of Values.

### **6.2 Monthly Progress Payments.**

**6.2.1** Design-Build Firm shall submit Applications for Payment in accordance with Article 7 of the Agreement. Application for Payment shall be on the form provided by the Owner.

**6.2.2** All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Build Firm for early payment shall accrue one hundred percent to Design-Build Firm to the extent Design-Build Firm advances payment. Unless Owner advances payment to Design-Build Firm specifically to receive the discount, Design-Build Firm may include in its Application for Payment the full undiscounted cost of the item for which payment is sought. Design-Build Firm must notify the Owner of any opportunities for discounts available for advance payment for Owner to decide whether or not payment will be advanced to Design-Build Firm to achieve savings.

### **6.3 Withholding of Payments**

**6.3.1** The County may decline to make payment, may withhold funds otherwise payable and, if necessary, may demand the return of some or all of the amounts previously paid to Design-Build Firm, if:

- a) Any Claims are made against Design-Build Firm by the County or third-parties, including Claims for liquidated damages or if reasonable evidence indicates the probability of the making of any such Claim;
- b) Any Claims are made against the Owner, the Owner's property or any other party indemnified under the Agreement which is or might be covered by Design-Build Firm's Indemnification obligations as stated herein;

- c) Design-Build Firm fails to pay Sub-contractors or others in full or on time;
- d) Design-Build Firm fails to submit schedules, reports, or other information required under the Agreement;
- e) Design-Build Firm fails to diligently prosecute the Work and maintain progress to assure completion within the Contract Time;
- f) Design-Build Firm persistently fails to fully and timely perform the Work in accordance with the Contract Documents;
- g) Defective or nonconforming Work is not corrected; or
- h) Design-Build Firm is in default of any other representation, warranty, covenant or performance obligation of the Agreement.

**6.3.2** If Claims or liens filed against Design-Build Firm or property of the Owner connected with performance under the Agreement are not promptly removed by Design-Build Firm after receipt of written notice from the Owner to do so, the Owner may remove such Claims or liens and all costs in connection with such removal shall be deducted from withheld payments or other monies due, or which may become due, to Design-Build Firm. If the amount of such withheld payments or other monies due Design-Build Firm under the Agreement is insufficient to meet such cost, or if any Claim or lien against Design-Build Firm is discharged by the Owner after final payment is made, Design-Build Firm and its Surety or Sureties shall promptly pay the Owner all costs (including attorney's fees) incurred thereby regardless of when such Claim or lien arose.

#### **6.4 Right to Stop Work and Interest.**

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

#### **6.5 Design-Build Firm's Payment Obligations.**

Design-Build Firm will pay Design Consultants and Sub-contractors, in accordance with its contractual obligations to such parties, all the amounts Design-Build Firm has received from Owner on account of their work. Design-Build Firm will impose similar requirements on Design Consultants and Sub-contractors to pay those parties with whom they have contracted. Design-Build Firm will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

#### **6.6 Final Payment.**

**6.6.1** After receipt of a Final Application for Payment from Design-Build Firm, Owner shall make final payment by the time required in the Agreement, provided that Design-Build Firm has achieved Final Completion.

**6.6.2** At the time of submission of its Final Application for Payment, Design-Build Firm shall provide the following information:

**6.6.2.1** An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

**6.6.2.2** A general release executed by Design-Build Firm waiving, upon receipt of final payment by Design-Build Firm, all claims, except those claims previously made in writing



to Owner and remaining unsettled at the time of final payment;

**6.6.2.3** Consent of Design-Build Firm's surety, if any, to final payment;

**6.6.2.4** All operating manuals, warranties and other deliverables required by the Contract Documents; and

**6.6.2.5** Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

**6.6.3** Upon making final payment, Owner waives all claims against Design-Build Firm except claims relating to (i) Design-Build Firm's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Build Firm's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

**6.6.4** Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Build Firm under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Build Firm, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

## **Article 7** **Indemnification**

### **7.1 Indemnification**

**7.1.1** To the fullest extent permitted by law, the Design-Build Firm shall indemnify and hold harmless Owner and its officers and employees ("Indemnified Party"), from and against liabilities, claims, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from performance of the Work, provided that such liability, claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction to tangible property (other than the Work itself) including loss of use resulting therefrom related to third-party claims, but only to the extent caused in whole or in part by negligence, recklessness, errors, omissions, or intentional wrongful misconduct of the Design-Build Firm and persons employed or utilized by Design-Build Firm in the performance of the Work.

**7.1.2** To the extent permitted by, and in accordance with Section 725.06, Florida Statutes, Design-Build Firm further agrees that "damages, losses and expenses", includes fines, citations, court judgments, insurance claims, restoration costs, or other liability, to the extent caused by the negligence, recklessness, errors, omissions, or intentional wrongful misconduct of the Design-Build Firm and persons employed or utilized by Design-Build Firm in the performance of this Agreement.

**7.1.3** To the extent permitted by, and in accordance with Section 725.06, Florida Statutes, for purposes of indemnity, the "persons employed or utilized by Design-Build Firm" shall be construed to include, but not be limited to Design-Build Firm, its staff, employees, subcontractors, subconsultants, all deliverers, suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of the Design-Build Firm.

**7.1.4** In claims against any person or entity indemnified under this Paragraph by an employee of the Design-Build Firm, a sub-consultant, a sub-contractor, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design-Build Firm, a sub-consultant, or a sub-contractor under workers' compensation acts, disability benefits acts or other employee benefit acts. In executing this Agreement, Owner and Design-Build Firm each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each



has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

**7.1.5** In Claims against any person or entity indemnified hereunder by an employee of Design-Build Firm, any subcontractor, subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Design-Build Firm or any subcontractor or subconsultant under any workers' compensation acts, disability benefits acts or other employee benefit acts.

**7.1.6** Design-Build Firm's indemnity and hold harmless obligations hereunder shall extend to all Claims against the Owner by any third party or third-party beneficiary of this Agreement and all liabilities, damages, losses and expenses related thereto.

**7.1.7** This indemnification will not be valid in the instance where the loss is caused by the gross negligence, or willful, wanton or intentional misconduct of any Indemnified Party.

**7.1.8** Design-Build Firm shall further indemnify and hold harmless the Owner, its officers and employees from and against all Claims arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents and shall defend such Claims in connection with any alleged infringement of such rights.

**7.1.9** The indemnification provisions of this Section shall survive expiration or earlier termination of this Agreement.

**7.1.10** Any and all Subcontracts of any tier entered into by the Design-Build Firm to design or build the Project shall require Design Consultants or Sub-contractors to release the Owner and hold it harmless to the same extent required in this Article 7. The release obligations set forth in the Subcontracts shall name the Owner as an express third-party beneficiary with rights of enforcement of such obligation and shall entitle the Owner to succeed the Design-Build Firm's rights under such Subcontract. The Owner shall not, however, be construed as a party to any Subcontract related to the Project nor shall the Owner in any way be responsible for any or all Claims of any nature whatsoever arising or which may arise from any such Subcontracts.

## **7.2 Patent and Copyright Infringement.**

**7.2.1** Design-Build Firm shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Build Firm of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Build Firm shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Build Firm in any such action or proceeding. Design-Build Firm agrees to keep Owner informed of all developments in the defense of such actions.

**7.2.2** If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Build Firm shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Build Firm cannot so procure such right within a reasonable time, Design-Build Firm shall promptly, at Design-Build Firm's option and at Design-Build Firm's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

**7.2.3** Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Build Firm to Owner or (ii) arising from modifications to the Work by Owner or its agents

after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Build Firm to the same extent Design-Build Firm is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

**7.2.4** The obligations set forth in this Section 7.2 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

**7.3 Tax Claim Indemnification.**

If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Build Firm from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Build Firm as a result of any action taken by Design-Build Firm in accordance with Owner's directive. Owner shall furnish Design-Build Firm with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Build Firm may rely.

**7.4 Payment Claim Indemnification.**

Provided that Owner is not in breach of its contractual obligation to make payments to Design-Build Firm for the Work, Design-Build Firm shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Build Firm, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Build Firm shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Build Firm fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Build Firm liable for costs and expenses incurred, including attorneys' fees.

**7.5 Owner's General Indemnification.**

Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Build Firm and any of Design-Build Firm's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for whose acts any of them may be liable.

## **Article 8** **Time**

**8.1 Obligation to Achieve the Contract Times.**

Design-Build Firm agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

**8.2 Delays to the Work.**

**8.2.1** If Design-Build Firm is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Build Firm is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Build Firm to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

**8.2.2** In addition to Design-Build Firm's right to a time extension for those events set forth in Section 8.2.1 above, Design-Build Firm shall also be entitled to an appropriate adjustment of the Contract Price, as approved by the Owner, provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.



## **Article 9**

### **Changes to the Contract Price and Time**

#### **9.1 Change Orders.**

**9.1.1** A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Build Firm, stating their agreement upon all of the following:

**9.1.1.1** The scope of the change in the Work;

**9.1.1.2** The amount of the adjustment to the Contract Price; and

**9.1.1.3** The extent of the adjustment to the Contract Time(s).

**9.1.2** All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Build Firm shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

**9.1.3** If Owner requests a proposal for a change in the Work from Design-Build Firm and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Build Firm for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

#### **9.2 Work Change Directives.**

**9.2.1** A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

**9.2.2** Owner and Design-Build Firm shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

#### **9.3 Minor Changes in the Work.**

Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Build Firm may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Build Firm shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Build Firm.

#### **9.4 Contract Price Adjustments.**

**9.4.1** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

**9.4.1.1** Unit prices set forth in the Agreement or as subsequently agreed to between the Parties;

**9.4.1.2** A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

**9.4.1.3** Costs, fees and any other markups set forth in the Agreement; or

**9.4.1.4** If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the

performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

**9.4.2** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Build Firm because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

**9.4.3** If Owner and Design-Build Firm disagree upon whether Design-Build Firm is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Build Firm shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Build Firm shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Build Firm to perform the services in accordance with Owner's interpretations, Design-Build Firm shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Build Firm (i) directing Design-Build Firm to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Build Firm shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Build Firm does not prejudice Design-Build Firm's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

## **9.5 Emergencies.**

**9.5.1** In any emergency affecting the safety of persons and/or property, Design-Build Firm shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

## **Article 10** **Contract Adjustments and Disputes**

### **10.1 Requests for Contract Adjustments and Relief.**

If either Design-Build Firm or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

### **10.2 Dispute Avoidance and Resolution.**

**10.2.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Build Firm and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**10.2.2** Design-Build Firm and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Build Firm's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in



Section 10.1 unless the Owner and Design-Build Firm mutually agree otherwise.

**10.2.3** If a dispute or disagreement cannot be resolved through Design-Build Firm's Representative and Owner's Representative, Design-Build Firm's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than fourteen (14) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

**10.2.4** If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the Design-Build firm shall submit a Contract Claim as provided herein.

**10.2.5** Claims arising from this Agreement shall be filed with the Assistant Director of Purchasing & Contracts. Prior to filing a Contract Claim, Design-Build Firm shall first exhaust all remedies set forth in the Contract Documents. The Contract Claim must be submitted to the Assistant Director of Purchasing & Contracts within five (5) business days of exhausting all the remedies set forth above. Pending final resolution of a dispute or claim, unless otherwise agreed to in writing, Design-Build Firm is required to proceed with performance of the Work and maintain effective progress to complete the Work within the Contract Time set forth in the Contract Documents. The Contract Claim shall include, at a minimum, the following:

- a) The name and address of the Design-Build Firm and any legal counsel; and
- b) The address to which the Assistant Director of Purchasing & Contracts should send their final decision; and
- c) Identification and copy of the final adverse decision or document that is the subject of the Contract Claim and any exhibits, evidence or documents which the Design-Build Firm deems applicable to the issues raised in the Claim; and
- d) Identification of the administrative remedies provided for in the Contract Documents that were pursued prior to the Claim and the outcome; and
- e) A statement of the grounds for each issue raised in the Contract Claim to be reviewed and the applicable provisions of the Contract Documents, as well as any applicable laws or other legal authorities which the Contract Documents deems applicable to the Claim; and

**10.2.6** During the Assistant Director of Purchasing & Contracts' review of the Contract Claim, additional information may be requested from either party. The parties are to provide the requested information within the time period set forth in the request. Failure of either party to timely comply may result in resolution of the Claim without consideration of the requested information.

**10.2.7** The Assistant Director of Purchasing & Contracts shall render a decision on the Contract Claim within twenty-one (21) calendar days of receipt of all requested information. The written decision of the Assistant Director of Purchasing & Contracts shall be sent to the Design-Build Firm at the notice address listed herein or to the address provided in the Contract Claim.

**10.2.8** The decision for any Contract Claim by the Assistant Director of Purchasing & Contracts may be appealed by the Design-Build Firm to the County Administrator. Design-Build Firm must submit their appeal to the County Administrator, including any and all information, documentation, backup data, or other supplemental facts or figures within five (5) business days of receipt of the Assistant Director of Purchasing & Contracts' decision. Failure by the Design-Build Firm to submit an appeal within the prescribed timeframe shall be a waiver of a right to appeal the rendered decision. The appeal shall include any and all information, documentation, and data relative to the Contract Claim and subsequent appeal. The County Administrator shall render a decision within thirty (30) calendar days of receipt of all information. The County Administrator's decision shall be considered final, unless Design-Build Firm takes legal action in Circuit Court.



**10.3 Duty to Continue Performance.**

Unless provided to the contrary in the Contract Documents, Design-Build Firm shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Build Firm, pending the final resolution of any dispute or disagreement between Design-Build Firm and Owner.

**10.4 CONSEQUENTIAL DAMAGES.**

**10.4.1** The Owner shall not be liable to Design-Build Firm, whether in contract, tort, warranty, or under any statute or on any other basis, for any consequential, incidental, indirect, special, punitive, or exemplary damages suffered or incurred by Design-Build Firm in connection with this Agreement, even if the Owner has been advised of the possibility of such damages. Consequential damages shall include, by way of example and without limitations, opportunity costs, loss of use of facilities or other assets, consequential damage claims of Sub-contractors, lost profits, lost savings, lost business, lost bonding capacity, lost financing, lost reputation or lost goodwill.

## **Article 11**

### **Stop Work and Termination for Cause**

**11.1 Owner's Right to Stop Work.**

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

**11.1.2** Owner may, without cause and for its convenience, order Design-Build Firm in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

**11.1.2** Design-Build Firm is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of the Work by Owner, if such suspension and/or stoppage is without cause or for Owner's convenience.

**11.2 Owner's Right to Perform and Terminate for Cause.**

**11.2.1** If Design-Build Firm persistently or repeatedly fails to (i) provide a sufficient number of skilled workers, supervisory personnel, (ii) supply the proper equipment and materials, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

**11.2.2** Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Build Firm that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Build Firm's receipt of such notice. If Design-Build Firm fails to cure, or reasonably commence to cure, such problem, then Owner may, but is in no way obligated to, give a second written notice to Design-Build Firm of its intent to terminate within an additional seven (7) day period. If Design-Build Firm, within either seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Build Firm of such declaration.

**11.2.3** Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Design-

Build Firm shall not remove from the Site any materials, equipment, or tools that have been paid for by Owner pursuant to this Agreement, and Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Build Firm hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Build Firm shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. Design-Build Firm will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Build Firm shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Build Firm's default.

**11.2.4** If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

### **11.3 Design-Build Firm's Right to Stop Work.**

**11.3.1** Design-Build Firm may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

**11.3.1.1** Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

**11.3.1.2** Owner's failure to pay amounts properly due under Design-Build Firm's Application for Payment.

**11.3.2** Should any of the events set forth in Section 11.3.1 above occur, Design-Build Firm has the right to provide Owner with written notice that Design-Build Firm will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Build Firm's notice. If Owner does not cure the problem within such seven (7) day period, Design-Build Firm may stop the Work. In such case, Design-Build Firm shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

### **11.4 Design-Build Firm's Right to Terminate for Cause.**

**11.4.1** Design-Build Firm, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

**11.4.1.1** The Work has been stopped, for more than sixty (60) consecutive days, or more than ninety (90) consecutive days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Build Firm or anyone for whose acts Design-Build Firm may be responsible.

**11.4.1.2** Owner's failure to provide Design-Build Firm with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Build Firm in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

**11.4.1.3** Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Build Firm has stopped the Work.



**11.4.2** Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Build Firm may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Build Firm may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Build Firm may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Build Firm shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

## **11.5 Bankruptcy of Owner or Design-Build Firm.**

**11.5.1** If either Owner or Design-Build Firm institutes or has instituted against it a case under the United States Bankruptcy Code (such Party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

**11.5.1.1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

**11.5.1.2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

**11.5.2** The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Build Firm to stop Work under any applicable provision of these General Conditions of Contract.

## **Article 12** **Electronic Data**

### **12.1 Electronic Data.**

The Parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Build Firm and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

### **12.2 Transmission of Electronic Data.**

**12.2.1** Owner and Design-Build Firm shall agree upon the software and the format for the transmission of Electronic Data. Each Party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

**12.2.2** Neither Party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated,

transmitted, generated or interpreted.

**12.2.3** By transmitting Work Product in electronic form, the transmitting Party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

**12.3 Electronic Data Protocol.**

**12.3.1** The Parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

**12.3.2** Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

**12.3.3** The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the Parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

**12.3.4** The transmitting Party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

**Article 13**  
**Miscellaneous**

**13.1 Confidential Information.**

**13.1.1** In accordance with the laws of the State of Florida, as applicable, Confidential Information is defined as information which is determined by the transmitting Party to be of a confidential or proprietary nature and: (i) the transmitting Party identifies it as either confidential or proprietary; (ii) the transmitting Party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving Party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the services set forth in this Agreement.

**13.2 Assignment.**

Neither Design-Build Firm nor Owner shall without the written consent of the other Party assign, transfer, or sublet any portion or part of its obligations under this Agreement.

**13.3 Successorship.**

Design-Build Firm and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.



**13.4 Governing Law and Venue.**

This Agreement shall be governed by the laws of the State of Florida, without giving effect to its conflict of law principals. Venue for any claim arising from this Agreement shall be in a state or federal court serving St. Johns County, FL.

**13.5 Severability.**

If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

**13.6 No Waiver.**

The delay or failure of either Design-Build Firm or Owner to exercise or enforce any its rights or remedies under the Contract Documents shall not constitute or be deemed a waiver of the Owner's or Design-Build Firm's rights thereafter to exercise or enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the Parties after the execution of the Agreement shall not be deemed a waiver or modification of the Agreement.

**13.7 Headings.**

The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

**13.8 Notice.**

Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, or (iii) if transmitted by email.

**13.9 Amendments.**

The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

# Superior Construction Company SE, LLC

7072 Business Park Blvd  
Jacksonville, FL 32256  
USA

Phone: 904-292-4240  
Fax: 904-292-2682

**"SUPERIOR in Service, Quality, and Safety Since 1938!"**

<b>To:</b> St. Johns County	<b>Contact:</b>
<b>Address:</b> St. Augustine, FL	<b>Phone:</b>
	<b>Fax:</b>
<b>Project Name:</b> SJC - CR 210 90% GMP (Contract) Rev. 2	<b>Bid Number:</b>
<b>Project Location:</b>	<b>Bid Date:</b> 2/10/2023

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
<b>BASE BID</b>					
<b>Direct Cost</b>					
0 50 2	DESIGN / BUILD, POST-DESIGN	1.00	LS	\$190,000.00	\$190,000.00
0101 1	MOBILIZATION	1.00	LS	\$366,814.35	\$366,814.35
0102 1	MAINTENANCE OF TRAFFIC	1.00	LS	\$730,936.09	\$730,936.09
0102 104	TEMPORARY SIGNALIZATION AND MAINTENANCE, INTERSECTION	650.00	DY	\$27.00	\$17,550.00
0102 107 1	TEMPORARY TRAFFIC DETECTION AND MAINTENANCE, INTERSECTION	650.00	DY	\$10.00	\$6,500.00
0110 7 1	MAILBOX, F&I SINGLE	26.00	EACH	\$703.34	\$18,286.84
0102 115	TYPE III BARRICADE	6,934.00	EADY	\$0.20	\$1,386.80
0102 2 1	SPECIAL DETOURS (TEMPORARY WIDENINGS)	1.00	LS	\$407,166.06	\$407,166.06
0102 3	COMMERCIAL MATERIAL FOR DRIVEWAY MAINTENANCE	239.00	CY	\$428.60	\$102,435.40
0102 912 2	PAVEMENT MARKING REMOVABLE TAPE, YELLOW, SOLID	0.01	GLMI	\$27,796.68	\$277.97
0102 913 21	REMOVABLE TAPE, WHITE, SOLID 6"	0.01	GLMI	\$27,796.68	\$277.97
0102 10	OFF-DUTY LAW ENFORCEMENT OFFICER FOR SIGNALIZATION	25.00	EADY	\$830.00	\$20,750.00
0102 60	WORK ZONE SIGN	19,138.00	DY	\$0.19	\$3,636.22
0102 61	BUSINESS SIGN	3.00	EACH	\$505.68	\$1,517.04
0102 71 13	BARRIER WALL, TEMPORARY, F&I, LOW PROFILE, CONCRETE	1,812.00	LF	\$66.49	\$120,479.88
0102 71 23	TEMPORARY BARRIER, RELOCATE, LOW PROFILE CONCRETE	1,776.00	LF	\$30.33	\$53,866.08
0102 74 1	CHANNELIZING DEVICE- TYPES I, II, DI, VP, DRUM, OR LCD	488,793.00	EADY	\$0.10	\$48,879.30
0102 99	PORTABLE CHANGEABLE MESSAGE SIGN, TEMPORARY	2,136.00	EADY	\$9.61	\$20,526.96
0104 1	ARTIFICIAL COVERINGS /ROLLED EROSION CONTROL PRODUCTS	1,000.00	SY	\$6.06	\$6,060.00
0104 1	CONTRACTOR'S EROSION CONTROL MAINTENANCE	1.00	LS	\$358,900.04	\$358,900.04
0104 9	SEDIMENT BASIN / CONTAINMENT SYSTEM-CLEANOUT	1.00	EACH	\$6,877.78	\$6,877.78
0104 10 3	SEDIMENT BARRIER	6,531.00	LF	\$4.24	\$27,691.44
0104 11	FLOATING TURBIDITY BARRIER	794.00	LF	\$19.18	\$15,228.92
0104 12	STAKED TURBIDITY BARRIER- NYLON REINFORCED PVC	1,100.00	LF	\$8.77	\$9,647.00
0104 15	SOIL TRACKING PREVENTION DEVICE	8.00	EACH	\$4,085.31	\$32,682.48
0104 18	INLET PROTECTION SYSTEM	128.00	EACH	\$142.68	\$18,263.04
0110 1 1	CLEARING & GRUBBING	1.00	LS	\$578,150.29	\$578,150.29
0110 3	REMOVAL OF EXISTING STRUCTURES/BRIDGES	3,760.00	SF	\$34.73	\$130,584.80
0110 4 10	REMOVAL OF EXISTING CONCRETE	3,704.00	SY	\$20.62	\$76,376.48
0120 1	REGULAR EXCAVATION	116,624.00	CY	\$9.17	\$1,069,442.08
0120 2	SUBSOIL EXCAVATION	2,000.00	CY	\$11.53	\$23,060.00
0120 6	EMBANKMENT	90,041.00	CY	\$3.75	\$337,653.75
0160 4	TYPE B STABILIZATION	105,402.00	SY	\$6.15	\$648,222.30
0285 704	OPTIONAL BASE, BASE GROUP 04	1,407.00	SY	\$29.69	\$41,773.83
0285 707	OPTIONAL BASE, BASE GROUP 07	86,284.00	SY	\$22.01	\$1,899,110.84
0327 70 6	MILLING EXIST ASPH PAVT, 1 1/2" AVG DEPTH	2,300.00	SY	\$8.50	\$19,550.00



Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
0334 1 12	SUPERPAVE ASPHALTIC CONC, TRAFFIC B	11,992.00	TON	\$161.00	\$1,930,712.00
0337 7 81	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC B, FC -12.5, PG 76-22	7,308.00	TON	\$198.00	\$1,446,984.00
0339 1	MISC. ASPHALT	40.00	TON	\$871.01	\$34,840.40
0400 147	COMPOSITE NEOPRENE PADS	5.60	CF	\$1,773.08	\$9,929.25
0400 2 4	CONC CLASS II, BRIDGE SUPERSTRUCTURE	255.00	CY	\$1,120.84	\$285,814.20
0400 2 10	CONCRETE CLASS II, APPROACH SLABS	240.00	CY	\$695.40	\$166,896.00
0400 4 5	CONCRETE CLASS IV, BRIDGE SUBSTRUCTURE	130.00	CY	\$1,842.98	\$239,587.40
0400 7 1	BRIDGE DECK GROOVING	906.00	SY	\$5.00	\$4,530.00
0415 1 4	REINFORCING STEEL - BRIDGE SUPERSTRUCTURE	51,672.00	LB	\$1.07	\$55,289.04
0415 1 5	REINFORCING STEEL- BRIDGE SUBSTRUCTURE	19,822.00	LB	\$1.09	\$21,605.98
0415 1 9	REINFORCING STEEL- APPROACH SLABS	45,511.00	LB	\$1.08	\$49,151.88
0425 1351	INLETS, CURB, TYPE P-5, <10'	25.00	EACH	\$7,986.43	\$199,660.75
0425 1361	INLETS, CURB, TYPE P-6, <10'	11.00	EACH	\$8,751.44	\$96,265.84
0425 1451	INLETS, CURB, TYPE J-5, <10'	1.00	EACH	\$10,067.15	\$10,067.15
0425 1461	INLETS, CURB, TYPE J-6, <10'	5.00	EACH	\$13,164.22	\$65,821.10
0425 1521	INLETS, DT BOT, TYPE C, <10'	4.00	EACH	\$5,804.49	\$23,217.96
0425 1531	INLETS, DITCH BOTTOM, TYPE C MODIFIED- BACK OF SIDEWALK, <10'	8.00	EACH	\$8,120.04	\$64,960.32
0425 1541	INLETS, DT BOT, TYPE D, <10'	44.00	EACH	\$6,953.35	\$305,947.40
0425 1543	INLETS, DITCH BOTTOM, TYPE D, J BOT, <10'	4.00	EACH	\$11,665.14	\$46,660.56
0425 1549	INLETS, DT BOT, TYPE D, MODIFY	2.00	EACH	\$9,591.84	\$19,183.68
0425 1589	INLETS, DT BOT, TYPE H, MODIFY	1.00	EACH	\$21,427.76	\$21,427.76
0425 1910	INLETS, CLOSED FLUME	3.00	EACH	\$6,319.85	\$18,959.55
0425 2 61	MANHOLES, P-8, <10'	8.00	EACH	\$7,000.43	\$56,003.44
0425 2 91	MANHOLES, J-8, <10'	8.00	EACH	\$9,561.77	\$76,494.16
0425 2 92	MANHOLES, J-8, >10'	1.00	EACH	\$16,370.30	\$16,370.30
0425 xxx	PVC PIPE, 6 INCH	20.00	LF	\$56.47	\$1,129.40
0430 174118	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 18"SD	69.00	LF	\$134.74	\$9,297.06
0430 174215	PIPE CULVERT, OPTIONAL MATERIAL, OTHER SHAPE - ELLIP/ARCH, 15"SD	66.00	LF	\$126.26	\$8,333.16
0430 174218	PIPE CULVERT, OPTIONAL MATERIAL, OTHER SHAPE - ELLIP/ARCH, 18"SD	164.00	LF	\$166.36	\$27,283.04
0430 175115	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 15"S/CD	325.00	LF	\$96.29	\$31,294.25
0430 175118	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 18"S/CD	3,602.00	LF	\$110.61	\$398,417.22
0430 175124	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 24"S/CD	2,329.00	LF	\$134.85	\$314,065.65
0430 175130	PIPE CULVERT, OPT MATERIAL, ROUND, 30"S/CD	4,417.00	LF	\$175.56	\$775,448.52
0430 175136	PIPE CULVERT, OPT MATERIAL, ROUND, 36"S/CD	3,962.00	LF	\$184.72	\$731,860.64
0430 175142	PIPE CULVERT, OPT MATERIAL, ROUND, 42"S/CD	266.00	LF	\$241.11	\$64,135.26
0430 175148	PIPE CULVERT, OPT MATERIAL, ROUND, 48"S/CD	728.00	LF	\$439.11	\$319,672.08
0430 175154	PIPE CULVERT, OPT MATERIAL, ROUND, 54"S/CD	295.00	LF	\$746.83	\$220,314.85
0430 175215	PIPE CULVERT, OPTIONAL MATERIAL, OTHER- ELIP/ARCH, 15"S/CD	21.00	LF	\$129.22	\$2,713.62
0430 175218	PIPE CULVERT, OPTIONAL MATERIAL, OTHER- ELIP/ARCH, 18"S/CD	47.00	LF	\$149.96	\$7,048.12
0430 515100	STRAIGHT CONCRETE ENDWALLS, 15", SINGLE, 0 DEGREES, ROUND	1.00	EACH	\$3,258.28	\$3,258.28
0430 536100	STRAIGHT CONCRETE ENDWALLS, 36", SINGLE, 0 DEGREES, ROUND	1.00	EACH	\$5,694.07	\$5,694.07
0430 548300	STRAIGHT CONCRETE ENDWALLS, 48", TRIPLE, 0 DEGREES, ROUND	2.00	EACH	\$42,370.72	\$84,741.44
0430 982125	MITERED END SECTION, OPTIONAL ROUND, 18" CD	2.00	EACH	\$2,386.84	\$4,773.68
0430 982129	MITERED END SECTION, OPTIONAL ROUND, 24" CD	1.00	EACH	\$3,607.67	\$3,607.67
0430 982133	MITERED END SECTION, OPTIONAL ROUND, 30" CD	1.00	EACH	\$5,402.13	\$5,402.13
0430 982141	MITERED END SECTION, OPTIONAL ROUND, 48" CD	1.00	EACH	\$11,486.35	\$11,486.35
0430 982142	MITERED END SECTION, OPTIONAL ROUND, 54" CD	1.00	EACH	\$23,217.71	\$23,217.71
0430 982623	MITERED END SECTION, OPTIONAL - ELLIPTICAL / ARCH, 15" CD	1.00	EACH	\$2,245.50	\$2,245.50
0430 984125	MITERED END SECTION, OPTIONAL ROUND, 18" SD	4.00	EACH	\$2,386.84	\$9,547.36
0430 984623	MITERED END SECTION, OPTIONAL OTHER - ELLIP/ARCH, 15" SD	4.00	EACH	\$2,269.11	\$9,076.44
0430 984625	MITERED END SECT, OPTIONAL - ELLIPTICAL / ARCH, 18" SD	12.00	EACH	\$2,382.10	\$28,585.20



Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
0450 2 36	PREST BEAMS: FLORIDA-I BEAM 36"	896.00	LF	\$273.47	\$245,029.12
0455 133 3	SHEET PILING STEEL, F&I PERMANENT	9,355.00	SF	\$46.69	\$436,784.95
0455 34 5	PRESTRESSED CONCRETE PILING, INCLUDES 100% DYNAMIC TESTING, SIZE 24"	1,180.00	LF	\$275.21	\$324,747.80
0458 1 11	BRIDGE DECK EXPANSION JOINT, NEW CONSTRUCTION, F&I POURED JOINT WITH BACKER ROD	201.00	LF	\$98.21	\$19,740.21
0515 1 2	PIPE HANDRAIL - GUIDERAIL, ALUMINUM	515.00	LF	\$70.55	\$36,333.25
0515 2311	PEDESTRIAN/ BICYCLE RAILING, ALUMINUM ONLY,42" TYPE 1	300.00	LF	\$107.25	\$32,175.00
0520 1 7	CONCRETE CURB & GUTTER, TYPE E	2,092.00	LF	\$30.64	\$64,098.88
0520 1 10	CONCRETE CURB & GUTTER, TYPE F	27,675.00	LF	\$24.95	\$690,491.25
0520 1 xx	CITY STANDARD CURB AND GUTTER	1,185.00	LF	\$28.87	\$34,210.95
0520 5 41	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 4' WIDE	264.00	LF	\$19.55	\$5,161.20
0521 5 13	CONCRETE TRAFFIC RAILING- BRIDGE, 36" SINGLE-SLOPE	600.00	LF	\$216.25	\$129,750.00
0522 1	CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK	11,593.00	SY	\$44.79	\$519,250.47
0522 1.1	CONCRETE SIDEWALK AND DRIVEWAYS, 5" THICK	847.00	SY	\$58.16	\$49,261.52
0522 2	CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK	182.00	SY	\$65.41	\$11,904.62
0527 2	DETECTABLE WARNINGS	445.00	SF	\$38.00	\$16,910.00
0530 1	RIPRAP, SAND-CEMENT	95.00	CY	\$584.21	\$55,499.95
0530 3 3	RIPRAP- RUBBLE, BANK AND SHORE	1,717.00	TON	\$143.78	\$246,870.26
0530 3 4	RIPRAP, RUBBLE, F&I, DITCH LINING	58.00	TON	\$243.75	\$14,137.50
0530 74	BEDDING STONE	611.00	TON	\$146.22	\$89,340.42
0530 74	BEDDING STONE	41.90	TON	\$184.36	\$7,724.68
0536 1 1	GUARDRAIL -ROADWAY, GENERAL TL-3	805.00	LF	\$28.25	\$22,741.25
0536 1 3	GUARDRAIL- ROADWAY, DOUBLE FACE	292.00	LF	\$32.45	\$9,475.40
0536 8 13	APPROACH TRANSITION CONNECTION TO RIGID BARRIER, FURNISH AND INSTALL, TL-3	5.00	EACH	\$2,725.00	\$13,625.00
0536 1 1	REMOVE EXISTING GUARDRAIL	500.00	LF	\$8.25	\$4,125.00
0536 85 24	GUARDRAIL END TREATMENT- PARALLEL APPROACH TERMINAL	2.00	EACH	\$3,675.00	\$7,350.00
0536 85 27	GUARDRAIL END TREATMENT- DOUBLE FACE APPROACH TERMINAL	2.00	EACH	\$10,250.00	\$20,500.00
536 6	PIPE RAIL FOR GUARDRAIL	650.00	LF	\$26.00	\$16,900.00
536 85 20	GUARDRAIL END TREATMENT - TRAILING ANCHORAGE	1.00	EACH	\$2,350.00	\$2,350.00
0548 13	RETAINING WALL SYSTEM,TEMPORARY, EXCLUDING BARRIER	1,530.00	SF	\$20.28	\$31,028.40
0550 10130	FENCING, TYPE A, 6.1-7.0, STANDARD	515.00	LF	\$15.00	\$7,725.00
0570 1 2	PERFORMANCE TURF, SOD	88,500.00	SY	\$6.26	\$554,010.00
0630 2 1	CONDUIT, FURNISH & INSTALL, OPEN TRENCH	9,710.00	LF	\$9.56	\$92,827.60
0630 2 2	CONDUIT, FURNISH & INSTALL, DIRECTIONAL BORE	7,021.00	LF	\$26.00	\$182,546.00
0630 2 16	CONDUIT, FURNISH & INSTALL, EMBEDDED CONCRETE BARRIERS AND TRAFFIC RAILINGS	1,800.00	LF	\$11.75	\$21,150.00
0632 7 1	SIGNAL CABLE- NEW OR RECONSTRUCTED INTERSECTION, FURNISH & INSTALL	2.00	PC	\$7,951.83	\$15,903.66
0633 1121	FIBER OPTIC CABLE, F&I, UNDERGROUND,2-12 FIBERS	744.00	LF	\$3.71	\$2,760.24
0633 1122	FIBER OPTIC CABLE, F&I, UNDERGROUND,13-48 FIBERS	15,590.00	LF	\$3.21	\$50,043.90
0633 2 31	FIBER OPTIC CONNECTION, INSTALL, SPLICE	64.00	EACH	\$51.78	\$3,313.92
0633 2 32	FIBER OPTIC CONNECTION, INSTALL, TERMINATION	36.00	EACH	\$88.09	\$3,171.24
0633 3 12	FIBER OPTIC CONNECTION HARDWARE, F&I, SPLICE TRAY	5.00	EACH	\$133.69	\$668.45
0633 3 14	FIBER OPTIC CONNECTION HARDWARE, F&I, BUFFER TUBE FAN OUT KIT	3.00	EACH	\$103.43	\$310.29
0633 3 16	FIBER OPTIC CONNECTION HARDWARE, F&I, PATCH PANEL- FIELD TERMINATED	2.00	EACH	\$1,853.84	\$3,707.68
0633 3 51	FIBER OPTIC CONNECTION HARDWARE, ADJUST/MODIFY SPLICE ENCLOSURE	5.00	EACH	\$559.38	\$2,796.90
0635 2 11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	61.00	EACH	\$936.08	\$57,100.88
0635 2 12	PULL & SPLICE BOX, F&I, 24" X 36" COVER SIZE	48.00	EACH	\$2,114.87	\$101,513.76
0635 2 13	PULL & SPLICE BOX, F&I, 30" X 60" RECTANGULAR OR 36" ROUND COVER SIZE	4.00	EACH	\$4,418.75	\$17,675.00
0635 3 13	JUNCTION BOX, FURNISH & INSTALL, EMBEDDED	8.00	EACH	\$587.82	\$4,702.56
0639 1122	ELECTRICAL POWER SERVICE, F&I, UNDERGROUND,	4.00	AMBY	\$4,183.66	\$16,734.64

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
0639 2 1	METER PURCHASED BY CONTRACTOR ELECTRICAL SERVICE WIRE, FURNISH & INSTALL	1,181.00	LF	\$10.96	\$12,943.76
0639 3 11	ELECTRICAL SERVICE DISCONNECT, F&I, POLE MOUNT	4.00	EACH	\$1,679.74	\$6,718.96
0641 2 12	PRESTRESSED CONCRETE POLE, F&I, TYPE P-II SERVICE POLE	4.00	EACH	\$1,880.51	\$7,522.04
0643 600	STRAIN POLE, WOOD, REMOVE	2.00	EACH	\$760.00	\$1,520.00
0646 1 11	ALUMINUM SIGNALS POLE, PEDESTAL	14.00	EACH	\$1,822.34	\$25,512.76
0649 21 3	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 40'	1.00	EACH	\$59,223.36	\$59,223.36
0649 21 6	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 50'	1.00	EACH	\$76,679.80	\$76,679.80
0649 21 10	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 60'	1.00	EACH	\$89,738.43	\$89,738.43
0649 21 15	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 70'	2.00	EACH	\$98,527.40	\$197,054.80
0649 21 26	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, DOUBLE ARM 78'-70'	1.00	EACH	\$113,578.42	\$113,578.42
0650 1 14	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 3 SECTION, 1 WAY	14.00	AMBY	\$1,198.00	\$16,772.00
0650 1 16	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 4 SECTION, 1 WAY	6.00	AMBY	\$1,487.00	\$8,922.00
0650 1 19	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL ALUMINUM, 5 SECTION CLUSTER, 1 WAY	1.00	AMBY	\$1,831.00	\$1,831.00
0650 1 60	VEHICULAR TRAFFIC SIGNAL, REMOVE- POLES TO REMAIN	6.00	AMBY	\$87.00	\$522.00
0653 1 11	PEDESTRIAN SIGNAL, FURNISH & INSTALL LED COUNTDOWN, 1 WAY	14.00	AMBY	\$823.11	\$11,523.54
0660 4 11	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL CABINET EQUIPMENT	2.00	EACH	\$12,715.23	\$25,430.46
0660 4 12	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL ABOVE GROUND EQUIPMENT	7.00	EACH	\$5,438.63	\$38,070.41
0663 1111	SIGNAL PRIORITY AND PREEMPTION SYSTEM, F&I, OPTICAL, CABINET ELECTRONICS	2.00	EACH	\$7,546.21	\$15,092.42
0663 1112	SIGNAL PRIORITY AND PREEMPTION SYSTEM, F&I, OPTICAL, DETECTOR	7.00	EACH	\$2,393.04	\$16,751.28
0665 1 11	PEDESTRIAN DETECTOR, FURNISH & INSTALL, STANDARD	14.00	EACH	\$298.86	\$4,184.04
0670 5110	TRAFFIC CONTROLLER ASSEMBLY, F&I, NEMA	1.00	AMBY	\$35,835.94	\$35,835.94
0671 2 11	TRAFFIC CONTROLLER WITHOUT CABINET, F&I IN EXISTING CABINET, NEMA	1.00	EACH	\$7,996.97	\$7,996.97
0671 2 60	TRAFFIC CONTROLLER, REMOVE- CABINET TO REMAIN	1.00	EACH	\$115.68	\$115.68
0676 1500	TRAFFIC SIGNAL CONTROLLER CABINET, ADJUST/MODIFY	1.00	EACH	\$2,359.91	\$2,359.91
0682 1133	ITS CCTV CAMERA, F&I, DOME ENCLOSURE - NON- PRESSURIZED, IP, HIGH DEFINITION	2.00	EACH	\$6,901.55	\$13,803.10
0684 1 1	MANAGED FIELD ETHERNET SWITCH, FURNISH & INSTALL	3.00	EACH	\$4,483.47	\$13,450.41
0685 1 14	UNINTERRUPTIBLE POWER SUPPLY, FURNISH AND INSTALL, ONLINE/DOUBLE CONVERSION WITH CABINET	2.00	EACH	\$9,750.00	\$19,500.00
0700 2 13	MULTI- POST SIGN, F&I GROUND MOUNT, 21-30 SF	2.00	AMBY	\$6,491.00	\$12,982.00
0700 2 60	MULTI- POST SIGN, REMOVE	2.00	AMBY	\$150.00	\$300.00
0700 3201	SIGN PANEL, FURNISH & INSTALL OVERHEAD MOUNT, UP TO 12 SF	7.00	EACH	\$745.47	\$5,218.29
0700 5 21	INTERNALLY ILLUMINATED SIGN, FURNISH & INSTALL OVERHEAD MOUNT, UP TO 12 SF	3.00	EACH	\$3,465.69	\$10,397.07
0700 5 22	INTERNALLY ILLUMINATED SIGN, FURNISH & INSTALL, OVERHEAD MOUNT, 12-18 SF	3.00	EACH	\$4,243.45	\$12,730.35
0700 11391	ELECTRONIC DISPLAY SIGN, FURNISH & INSTALL OVERHEAD MOUNT- AC POWERED, BLANK OUT SIGN, UP TO 12 SF	1.00	AMBY	\$5,880.77	\$5,880.77
700 111	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF	38.00	AMBY	\$526.00	\$19,988.00
700 112	SINGLE POST SIGN, F&I GROUND MOUNT, 12-20 SF	33.00	AMBY	\$2,295.00	\$75,735.00
700 114	SINGLE POST SIGN, F&I GROUND MOUNT, 31+ SF	1.00	AMBY	\$2,526.00	\$2,526.00
700 1221	SIGN BEACON, F&I GROUND MOUNT- SOLAR POWERED, ONE BEACON	4.00	AMBY	\$10,101.10	\$40,404.40
700 160	SINGLE POST SIGN, REMOVE	42.00	AMBY	\$25.00	\$1,050.00
0705 10 1	OBJECT MARKER, TYPE 1	6.00	EACH	\$254.00	\$1,524.00

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
0705 11 1	DFI INEATOR, FLEXIBLE TUBULAR	83.00	EACH	\$91.00	\$7,553.00
0706 1 3	RAISED PAVEMENT MARKER, TYPE B	8,133.00	EACH	\$4.04	\$32,857.32
0710 11101	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SOLID, 6"	29.00	GLMI	\$1,364.56	\$39,572.24
0710 11102	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SOLID FOR INTERCHANGE AND URBAN ISLAND, 8"	0.26	GLMI	\$1,516.18	\$394.21
0710 11124	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SOLID FOR DIAGONAL OR CHEVRON, 18"	706.00	LF	\$1.01	\$713.06
0710 11125	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SOLID FOR STOP LINE OR CROSSWALK, 24"	1,996.00	LF	\$1.52	\$3,033.92
0710 11131	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, SKIP, 10-30 OR 3-9 SKIP, 6" WIDE	5.76	GLMI	\$505.39	\$2,911.05
0710 11141	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/ 6-10 DOTTED EXTENSION, 6"	0.65	GLMI	\$606.47	\$394.51
0710 11160	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, MESSAGE OR SYMBOL	40.00	EACH	\$85.92	\$3,436.80
0710 11170	PAINTED PAVEMENT MARKINGS, STANDARD, WHITE, ARROWS	255.00	EACH	\$35.38	\$9,021.90
0710 11201	PAINTED PAVEMENT MARKINGS, STANDARD, YELLOW, SOLID, 6"	20.15	GLMI	\$1,364.56	\$27,495.88
0710 11222	PAINTED PAVEMENT MARKINGS, STANDARD, YELLOW, SOLID, 8"	106.00	LF	\$0.30	\$31.80
0710 11224	PAINTED PAVEMENT MARKINGS, STANDARD, YELLOW, SOLID FOR DIAGONAL OR CHEVRON, 18"	2,490.00	LF	\$1.01	\$2,514.90
0710 11241	PAINTED PAVEMENT MARKINGS, STANDARD, YELLOW, 2-4 DOTTED GUIDELINE/6-10 DOTTED EXTENSION, 6"	0.55	GLMI	\$606.47	\$333.56
0710 90	PAINTED PAVEMENT MARKINGS, FINAL SURFACE	1.00	LS	\$23,366.39	\$23,366.39
0711 11123	THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK AND ROUNDABOUT	1,182.00	LF	\$5.05	\$5,969.10
0711 11124	THERMOPLASTIC, STANDARD, WHITE, SOLID, 18" FOR DIAGONALS AND CHEVRONS	560.00	LF	\$7.08	\$3,964.80
0711 11141	THERMOPLASTIC, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/ 6-10 GAP EXTENSION, 6"	0.41	GLMI	\$2,021.58	\$834.71
0711 11160	THERMOPLASTIC, STANDARD, WHITE, MESSAGE OR SYMBOL	6.00	EACH	\$227.43	\$1,364.58
0711 11170	THERMOPLASTIC, STANDARD, WHITE, ARROW	95.00	EACH	\$121.29	\$11,522.55
0711 11224	THERMOPLASTIC, STANDARD, YELLOW, SOLID, 18" FOR DIAGONAL OR CHEVRON	99.00	LF	\$15.16	\$1,500.84
0711 11241	THERMOPLASTIC, STANDARD, YELLOW, 2-4 DOTTED GUIDE LINE /6-10 DOTTED EXTENSION LINE, 6"	0.10	GLMI	\$2,526.97	\$252.70
0711 14125	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK	966.00	LF	\$20.22	\$19,532.52
0711 14160	THERMOPLASTIC, PREFORMED, WHITE, MESSAGE	19.00	EACH	\$227.43	\$4,321.17
0711 16101	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	5.67	GLMI	\$5,155.02	\$29,228.96
0711 16131	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SKIP, 6",10-30 SKIP OR 3-9 LANE DROP	4.05	GLMI	\$2,223.73	\$9,006.11
0711 16201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	4.30	GLMI	\$5,155.02	\$22,166.59
0713 103101	PERMANENT TAPE, WHITE, SOLID, 6" FOR CONCRETE BRIDGES	0.07	GLMI	\$27,796.68	\$1,890.17
0713 103131	PERMANENT TAPE, WHITE, SKIP/DOTTED, 6" FOR CONCRETE SURFACES	0.03	GLMI	\$8,591.70	\$292.12
0713 103201	PERMANENT TAPE, YELLOW, SOLID, 6" FOR CONCRETE BRIDGES	0.03	GLMI	\$27,796.68	\$945.09
0713 103331	PERMANENT TAPE, BLACK, SKIP/DOTTED, 6" FOR CONCRETE SURFACES	0.03	GLMI	\$8,591.70	\$257.75
0713 103331	PERMANENT TAPE, BLACK, SKIP/DOTTED, 6" FOR CONCRETE SURFACES	0.03	GLMI	\$8,591.70	\$292.12
0715 112	LIGHTING CONDUCTORS, F&I, INSULATED, NO.8 - 6	6,613.00	LF	\$1.98	\$13,093.74
0715 5 32	LUMINAIRE & BRACKET ARM- GALV STEEL, FURNISH & INSTALL NEW LUMINAIRE AND ARM ON NEW/EXISTING POLE	6.00	EACH	\$2,460.35	\$14,762.10
0715 500 1	POLE CABLE DISTRIBUTION SYSTEM, FURNISH AND INSTALL, CONVENTIONAL	18.00	EACH	\$629.34	\$11,328.12
0715 515230	LIGHT POLE COMPLETE- SPECIAL DESIGN, F&I, SINGLE ARM BRIDGE MOUNT-GALVANIZED STEEL, 30	4.00	EACH	\$6,511.66	\$26,046.64
0715 61111	LIGHT POLE COMPLETE, F&I, STANDARD POLE STANDARD FOUNDATION, 30' MOUNTING HEIGHT, 8'	8.00	EACH	\$6,348.47	\$50,787.76



Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
0715 7 11	ARM LENGTH LOAD CENTER, F&I, SECONDARY VOLTAGE	3.00	EACH	\$8,950.00	\$26,850.00
<b>Total Price for above Direct Cost Items:</b>					<b>\$21,496,999.80</b>
<b>Indirect Cost</b>					
	INDIRECT COSTS	1.00	LS	\$6,371,516.85	\$6,371,516.85
<b>Total Price for above Indirect Cost Items:</b>					<b>\$6,371,516.85</b>
<b>Fee</b>					
	CORPORATE OVERHEAD (3%) & MARGIN (13%)	1.00	LS	\$4,461,031.10	\$4,461,031.10
<b>Total Price for above Fee Items:</b>					<b>\$4,461,031.10</b>
<b>Total Price for above BASE BID Items:</b>					<b>\$32,329,547.75</b>
<b>CONTINGENCY</b>					
<b>Contingency</b>					
	OWNER'S SHARED CONTINGENCY	1.00	LS	\$432,000.00	\$432,000.00
<b>Total Price for above Contingency Items:</b>					<b>\$432,000.00</b>
<b>Total Price for above CONTINGENCY Items:</b>					<b>\$432,000.00</b>

**Notes:**

- Contractor shall submit to the County Project Manager for approval to utilize contingency funds.
- Construction duration is 26 months. If this duration is exceeded as a result of non-work days due to weather and/or holidays, Superior reserves the right to request extended overhead.
- Schedule accomodates power companies (JEA & FPL) relocating within 150 days of February 13, 2023. Other communication facilities above or below ground allowed 60 days beyond the power companies.
- Schedule is based on JEA acceptance of revised PD/B proposal provided to them February 2, 2023. In addition, it is anticipated that 'Case-B's' will be acceptable for sewer conflicts and a full relocation of the line is not required.
- Installation of bridge rip-rap is priced with the water at or below the Normal High Water (NHW) elevation of 8.00. Water control above NHW is excluded.
- The existing pond, SMF 200, has significant erosion damage below the water table. The new storm drain connections to this pond will be installed without drawing the pond down and worsening this condition. No allowance has been made to repiar SMF 200 beyond areas required for connection.
- Owner's Shared Contingency is for unforeseen circumstances and/or design changes such as:
  - Unknown subsurface conditions
  - Post 90% design changes to accommodate utilities
  - Delays due to utilities beyond allowances made in bid schedule
  - Post 90% design creep due to owners comments
  - Material escalations beyond those carried in proposal
  - Delays in material deliveries
- Unused Owner's Shared Contingency will be split at the end of project with 70% to Owner, 30% to Contractor

**Payment Terms:**

Payment due within 30 days of date of invoice, regardless of when payment is made by Owner

<p><b>ACCEPTED:</b> The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p><b>Buyer:</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Date of Acceptance:</b> _____</p>	<p><b>CONFIRMED:</b> <b>Superior Construction Company SE, LLC</b></p> <p><b>Authorized Signature:</b> _____</p> <p><b>Estimator:</b> Jeremy Andrews (904) 292-4240 JAndrews@superiorconstruction.com</p>
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