

## CONSTRUCTION CONTRACT

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**THIS AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025 by and between

### **THE CITY OF NORTH MIAMI, FLORIDA**

(Hereinafter referred to as “**Owner**”) and

### **KVC CONSTRUCTORS, INC.**

(Hereinafter referred to as “**Contractor**”).

**WHEREAS**, Owner is the owner of certain real property located in Miami-Dade County, Florida and desires to pursue:

Bid (IFB) No.:	26-23-24
Project Title:	Cagni Park North Project, Phase I

The Work of this Contract generally comprises the general construction of, but not limited to, a lit synthetic turf multi-purpose football/soccer field, recreation/lap type swimming pools, restroom/locker room aquatics building, a storage/maintenance building, playgrounds with shade and safety surfacing, site furniture such as benches, litter receptacles, freestanding drinking fountains, bike racks, football field goals and netting, scoreboard, bleachers and player benches, lit surface parking, 4’ and 6’ tall vertical picket fencing, lit concrete pedestrian walkways, landscape and irrigation as more specifically set forth in the Contract Documents.

Constructed pursuant to drawings, specifications and other design documents (“Contract Documents”) prepared by Bermello Ajamil & Partners (hereinafter referred to as “**Architect**”).

**WHEREAS**, the Contractor is desirous of performing the Work in accordance with the Contract Documents and all applicable laws, codes and ordinances limited to means and methods.

**NOW THEREFORE**, in exchange for the mutual covenants and promises set forth herein and the sums of money agreed to be paid by the Owner to Contractor, the parties agree as follows:

### **ARTICLE 1. ENTIRE AGREEMENT.**

1.01 This Construction Contract, along with the Contract Documents consisting of the General Conditions to Contract, Addenda, Drawings, Specifications, and any modifications issued after execution of the Contract, embodies the entire agreement between Owner and Contractor and supersedes all other writings, oral agreements, or representations.

1.02 The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.

1.03 NO CHANGES, AMENDMENTS OR MODIFICATIONS OF ANY OF THE TERMS OR CONDITIONS OF THIS CONTRACT SHALL BE VALID UNLESS REDUCED TO WRITING AND SIGNED BY BOTH PARTIES.

## **ARTICLE 2. ENUMERATION OF THE CONTRACT DOCUMENTS.**

2.01 The Contract Documents, consisting of this Contract, General Conditions to Contract, existing Drawings and Specifications, and all Addenda and modifications in the form of written signed change orders issued after execution of the Contract, together form the Contract, and they are fully a part of the Contract as if written herein word for word. The scope of Work is as set forth in the list of Drawings and Specifications for this Project are attached hereto as Exhibit 1.

## **ARTICLE 3. CONTRACT SUM.**

3.01 The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely and proper performance of its obligations hereunder, the lump-sum amount of:

Seventeen Million Seven Hundred Sixty-Five Thousand Five Hundred  
Seventy-Four Dollars and Zero Cents \$17,765,574.00.

This shall constitute the "Contract Price", which shall not be modified except by Change Order.

## **ARTICLE 4. TIME FOR CONTRACTOR'S PERFORMANCE.**

4.01 Upon execution of the Contract by both the Contractor and the Owner, submittal of the required performance and payment bonds, certificates of insurance, and issuance of a building permit, Owner will issue a Notice to Proceed stipulating the commencement date for the Work.

4.02 The Contractor shall commence the performance of the Work on the date stipulated in the Notice to Proceed and diligently continue its performance to and until final completion of the Project.

### **4.03 Required date of Final Completion:**

4.03.01 The Contractor shall accomplish Substantial Completion of the Work on or before:

**365 consecutive calendar days from the commencement date stipulated in the Notice To Proceed (hereinafter "Contract Time" or "Final Completion Date") Final Completion shall be achieved within (45) days of Substantial Completion.**

4.03.02 Intentionally Omitted.

#### **4.04 Liquidated Damages for Substantial Completion:**

4.04.01 Owner and Contractor acknowledge that any sums due and payable under this Section 4.04 of the Contract by the Contractor for liquidated damages shall be payable, not as a penalty, but as liquidated damages representing a reasonable estimate of delay damages, inconvenience, additional overhead and costs likely to be sustained by Owner, estimated at the time of executing this Contract.

4.04.02 If Contractor fails to achieve Substantial Completion within 365 calendar days from the issuance of the Notice to Proceed, subject to extensions of time as they may be permitted herein, then the liquidated damages due to Owner for each day after the Substantial Completion Date until Contractor reaches Substantial Completion shall be \$1,000 per day, which shall be deducted from any compensation due to Contractor under this Contract. Liquidated damages shall be the Owner's sole and exclusive remedy for delays by Contractor in achieving Substantial Completion without prejudice to Owner's rights elsewhere in this Agreement in the event of delayed performance by Contractor.

4.04.03 Intentionally omitted.

4.04.04 Intentionally omitted.

#### **ARTICLE 5. SUBSTANTIAL COMPLETION, FINAL COMPLETION AND FINAL PAYMENT.**

##### **5.01 Substantial Completion:**

5.01.01 When the Contractor believes that Substantial Completion has been achieved, the Contractor shall notify the Architect in writing and provide to the Architect a listing of the items of Work yet to be finished. The Architect will recommend to Owner whether the Work (or portion thereof) is appropriately ready for a Substantial Completion Inspection and Owner shall decide whether the Work or portion thereof is ready for the Substantial Completion Inspection, subject to the dispute resolution procedures of this Agreement.

5.01.02 If the Work is ready for a Substantial Completion Inspection, the Architect and Owner will thereupon conduct an inspection of the Work to establish a list of Work necessary for the Contractor to correct or finish. When Substantial Completion has been achieved, the Architect will issue a letter formally confirming the Substantial Completion Date for the Work or portion thereof.

5.01.03 Upon Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to the Contract Price, less any amounts attributable to actual or anticipated liquidated damages, together with one hundred fifty percent (150%) of the reasonable costs for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming Work and handling any outstanding or threatened claims or any other matters which could cause the Owner damage, cost, expense or delay. The process for implementing this section is more fully described in section 9.02.04 of the General Conditions to this Agreement.

## **5.02 Final Completion:**

5.02.01 When the Work or portion thereof is finally complete and ready for a final inspection, the Contractor shall notify the Architect in writing. The Architect will then recommend to Owner whether the Work (or portion thereof) is appropriately ready for a Final Completion Inspection and the Owner will decide whether it is ready for a Final Completion Inspection, subject to the dispute resolution procedures of this Agreement.

5.02.02 If the Work is determined to be ready for a Final Completion Inspection, the Architect and Owner will thereupon inspect the Work to determine if the Work is, in fact, finally complete. When Final Completion has been achieved, the Architect will issue a letter formally establishing the Final Completion Date for the Work or portion thereof.

5.02.03 When the Project is finally complete in accordance with the Contract Documents and has passed all required inspections, including, but not limited to, those required by any and all governmental bodies, boards, entities, etc., the Architect will provide a final Approval for Payment to the Owner certifying to the Owner that the Project is finally complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amounts withheld pursuant to Contract Documents.

## **5.03 Final Payment Upon Final Completion:**

5.03.01 Prior to being entitled to receive final payment and as a condition precedent thereto, Contractor shall provide the Owner, with a copy to the Architect, the following:

5.03.02 An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Project have been paid or otherwise satisfied in the form attached hereto as Exhibit 2;

5.03.03 Such other documents as required by the Contract Documents from each subcontractor, lower tier subsubcontractor, laborer, supplier or other person or entity who has or might have a claim against the Owner; and

5.03.04 All product warranties, operating manuals, and instruction manuals and other documents required elsewhere in the Contract Documents, as part of its Project Closeout procedures.

5.03.05 The Owner shall, subject to its rights set forth in the Contract Documents, make final payment of all sums due the Contractor within thirty days of the final Approval for Payment.

5.03.06 The Owner and Architect may acknowledge satisfactory completion and accept the Work notwithstanding the existence of certain incomplete items of Work. In that event, as set forth in Article 5.01.03 hereof, the Owner may withhold funds from Contractor equal to one hundred fifty percent of the estimated cost of the incomplete Work, which shall be paid to Contractor only when and if Contractor finally completes said items.



## **ARTICLE 6. TIME AND DELAYS.**

6.01 Unless otherwise stated, all time in the Contract Documents is calculated on a consecutive calendar day basis.

6.02 Time is of the essence in this Contract and any breach of same shall go to the essence hereof.

6.03 Contractor agrees to commence the Work when directed by Owner in the Notice to Proceed, diligently and continuously perform such Work and coordinate the Work with other work being performed on the Project by other trades so the Owner shall not be delayed by any act or omission of Contractor in completion of the Project within the time specified herein.

6.04 Contractor shall promptly pay its vendors, subcontractors, suppliers, and laborers for labor, material and equipment it used in the performance of its Work.

6.05 Contractor shall be entitled to additional time to the extent it is delayed and impacted by circumstances beyond its reasonable control. This shall include delays caused by the Owner and its agents, the design professionals retained by Owner or otherwise under Owner's control, by third parties including, but not limited to actions or inactions of the local authority having jurisdiction over the project and by other events beyond the Contractor's control that it could not have prevented, including an Act of God. Contractor shall not be entitled to recover any extended general conditions nor other delay costs or damages unless the delay was to the critical path and caused by Owner active interference as defined by Florida law.

6.05.01 Adverse weather such as rain is not to be considered an Act of God unless it exceeds the ten-year average as published by the National Weather Service (or equivalent organization acceptable to the Owner at its sole discretion) for that time of year in Miami-Dade County. In that event, Contractor shall be entitled to an extension of time to the extent such ten-year average has been exceeded.

6.05.02 An extension of time to complete the Work shall be granted to the Contractor provided that the Contractor provides the Owner with notice in writing of the cause of said act, hindrance or delay within twenty-one days after its occurrence. Twenty-one days following issuance of such notice Contractor shall provide as a condition precedent to entitlement to an extension of time, an accurate written time impact analysis and details of the manner in which Contractor plans to mitigate the effects of such delay.

6.05.03 If Contractor does not submit a request for extension of time in writing within the above-mentioned twenty-one-day time period, Contractor acknowledges and agrees it has forever waived any and all rights to such an extension.

6.05.04 All extensions of time shall be authorized only by a written change order executed by the Owner, Contractor and Architect. Any alleged extension of time not so authorized and signed shall be unenforceable. This "no damage for delay" clause will encompass any damages for delay, interference or disruption even if the Contractor completes construction of the Work in a timely fashion in accordance with this Contract.

6.05.05 The Contractor recognizes and specifically acknowledges the terms and conditions of this clause upon execution of this Contract.

## **ARTICLE 7. CONTRACT BONDS.**

7.01 The Contract shall become effective and in full force upon the execution of this agreement, concurrently with the delivery of payment and performance bonds issued by a surety company reasonably acceptable to Owner, such surety being qualified and rated in accordance with the terms of this Contract and licensed to do business in the State of Florida. The penal sum of both bonds shall be in no less than the Contract Price under this Contract.

7.02 The payment and performance bonds must be executed and signed by a duly authorized representative of the surety for one hundred per cent of the Contract price, said bond guaranteeing the performance of this Contract and as security for the payment of all persons performing labor and providing materials in connection with this Contract.

7.03 The form of the performance and payment bonds shall be in the form attached hereto as Exhibit 3.

7.04 Contractor shall have a continuing obligation to ensure that all insurance or surety requirements of the Contract Documents are satisfied throughout the construction of the Project and the completion of all post- completion obligations, including punch list and warranty requirements.

## **ARTICLE 8. NOTICES.**

8.01 Any notices provided for hereunder shall be in writing by email with delivery and read receipt, or letter served by registered mail or overnight delivery/courier service (e.g., Federal Express) to that party at the addresses shown below:

Owner:	City of North Miami 776 N.E. 125 Street North Miami, FL 33161 Attention: City Manager
With a copy to:	Whitney Padote, Project Manager Jeff Cazeau, Esq., City Attorney City of North Miami 776 N.E. 125 Street North Miami, FL 33161
Contractor:	Vick Crespín, Vice President KVC Constructors Inc. 9499 NE 2nd Ave, Suite 205 Miami Shores, FL 33138 <a href="mailto:vick.crespin@kvcconstructors.com">vick.crespin@kvcconstructors.com</a> 305-757-7707

With a copy to: Gary M. Stein, Esq  
Co-Managing Partner  
Peckar & Abramson, P.C.  
One SE Third Ave, Suite 2000  
Miami, FL 33131  
[gstein@pecklaw.com](mailto:gstein@pecklaw.com)  
305-358-2600

Architect: Kirk J. Olney, Principal Senior Landscape Architect  
4711 South LeJeune Road  
Coral Gables, FL 33146  
[kirk.olney@woolpert.com](mailto:kirk.olney@woolpert.com)  
305-859-2050

With a copy to: Liliana Varela Healey, Project Manager, Designer III  
4711 South LeJeune Road  
Coral Gables, FL 33146  
[liliana.varelahealey@woolpert.com](mailto:liliana.varelahealey@woolpert.com)  
305-859-2050

8.02 These addresses may be changed by either of the parties by written notice to the other party.

#### **ARTICLE 9. CONTRACTOR'S RECORD KEEPING.**

9.01 The Contractor must comply with public records laws. Florida Statute 119.0701 requires that the Contractor keep, maintain and provide public access to public records. The Contractor shall ensure that public records that are confidential and exempt from public records disclosure are not disclosed, except as authorized by law. The Contractor shall be responsible for retaining public records and transfer, at no cost to the public agency, all public records in their possession upon completion or termination of the contract. Electronically stored records must be provided in a format compatible with the information technology systems of the public agency.

**In witness whereof**, the said Contractor, **KVC CONSTRUCTORS, INC.**, and the Owner, **THE CITY OF NORTH MIAMI, FLORIDA**, have caused this Contract to be executed and their corporate seals affixed by and through their proper officers, thereunto duly authorized, on this day and year first above written.

(Corporate Seal)

FOR OWNER

ATTEST:

THE CITY OF NORTH MIAMI, Florida

\_\_\_\_\_  
Vanessa Joseph, Esq., City Clerk

By: \_\_\_\_\_  
Anna-Bo Emmanuel, Esq., FRA-RA  
Interim City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Jeff P. H. Cazeau, Esq.  
City Attorney

FOR CONTRACTOR

(Corporate Seal)

KVC CONSTRUCTORS, INC.

ATTEST:

By: \_\_\_\_\_  
Print Name:

## General Conditions of the Contract

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## **ARTICLE 1. DEFINITIONS.**

1.01 **The Contract Documents:** The Contract Documents consist of the Agreement Form, Addenda, these General Conditions, Drawings, Specifications, and all modifications issued after execution of the Contract.

1.02 **The Owner, the Contractor, and the Architect** are those mentioned as such in the Contract Documents.

1.02.01 **Owner:** The City of North Miami, Florida.

1.02.02 **Contractor:** KVC Constructors, Inc.

1.02.03 **Architect:** Bermello Ajamil & Partners.

1.03 **Final Completion:** The date subsequent to the date of Substantial Completion when Contractor has completed all of the Work (or designated portion thereof) in accordance with the Contract Documents as recommended by the Architect and approved by the Owner. Final Completion shall not be deemed to have occurred until all governmental bodies, boards, entities, etc. regulating or having jurisdiction of the Work have inspected, approved and certified the Work and no remaining Work remains to be performed, including punch list Work.

1.04 **Other Contractors:** Any person, firm or corporation hired by Owner for the performance of any work on the site outside the scope of the Work covered by this Contract.

1.05 **Owner's Representative:** The person designated to make decisions on Owner's behalf is Owner's Capital Projects Manager, currently identified as Whitney Padote. The Owner's Representative may be changed upon written notice to Contractor in accordance with this Agreement.

1.06 **Contractor's Representative:** The person designated to make decisions on Contractor's behalf, currently identified as Contractor's Project Manager, currently identified as Lemuel Beauchamp. The Contractor's Representative may be changed upon written notice to Owner in accordance with this Agreement.

1.07 **The Project:** The total construction of all Work required to be performed under the Contract Documents.

1.08 **Punch List:** A list of items of Work required by the Contract Documents which, after inspection by the Architect, Owner, and Contractor, has been recommended by Architect and determined by Owner to be deficient and/or inconsistent with the Contract Documents.

1.09 **Subcontractor:** A person or entity other than a supplier or laborer who enters into a contract with Contractor for the performance of any part of Contractor's Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

1.10 **Subsubcontractor:** A person or entity other than a supplier or laborer who enters into a contract with a Subcontractor for the performance of any part of such Subcontractor's contract. The term "Subsubcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subsubcontractor or an authorized representative of the Subsubcontractor.

1.11 **Submittals:** Documents prepared by the Contractor or those working on its behalf (Subcontractors, material suppliers, and others) to show how a particular aspect of the Work is to be fabricated and installed. The Contractor's submittals include shop drawings, product data, samples, mock-ups, test results, warranties, maintenance agreements, project photographs, record documents, field measurement data, operating and maintenance manuals, reports, certifications and other types of information described in the Plans and/or Specifications.

1.12 **Substantial Completion:** The point at which, as recommended by Architect and determined by Owner, the Work, or a designated portion thereof, is at a level of completion in substantial compliance with the Contract Documents such that the Owner or its designee can enjoy use or occupancy and can use or operate it in all respects for its intended purpose, which shall be no later than the issuance of a temporary certificate of occupancy.

1.13 **Surety:** The firm, corporation, or individual bound by Contractor's payment and performance bonds which engages to be responsible for the Contractor's acceptable performance of the work and for its payment of debts pertaining thereto.

1.14 **Work:** The totality of the obligations, including construction and other services, imposed on the Contractor by the Contract Documents and including all labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The term "Work" means all the labor, materials, machinery, supplies, furnishings, planning, supervision, facilities, tools, construction services, equipment, structures, and all things reasonably inferable from the Contract Documents to complete the Project.

1.15 **Written notice (deliberately not capitalized):** A written document duly served upon the representative of the other party identified as either Owner's Representative or Contractor's Representative if delivered by registered mail, overnight delivery service, email with proof of receipt or other traceable delivery service.

## **ARTICLE 2. THE WORK.**

2.01 The Contractor shall perform all of the Work required by the Contract Documents; provide materials, supplies, tools, equipment, labor and services directly related to the Work; perform the Work in a good and workmanlike manner with sufficient labor to perform the Work in accordance with the time requirements set forth in the Contract Documents; and perform all other acts and supply all other things necessary to complete the Work in accordance with the Contract Documents.

2.02 When completed, the Work shall conform to the requirements of the Contract Documents and be completely ready for occupancy and Final Completion. This shall not constitute a Contractor representation or warranty of the adequacy of the design documents.



2.03 The Contractor represents and warrants to the Owner:

2.03.01 It is financially solvent and has sufficient working capital to perform the obligations under this Construction Contract;

2.03.02 It is experienced and skilled in the construction of the type of project described in the Contract Documents;

2.03.03 It is able to provide the labor, materials, equipment and machinery necessary to complete the Work for the agreed upon price and within the agreed upon time;

2.03.04 It is fully licensed under all applicable laws and authorized to do business in the State of Florida in the name of the entity identified as the "Contractor" in the Contract;

2.03.05 It has visited the jobsite and examined its nature and location, including, without limitation, the above ground conditions of the site including any structure or obstruction both natural or man-made; the surface water conditions and waterways of the site and surrounding area; the subsurface conditions of the land as disclosed by soil test borings ; and the location of above ground electric and utility lines and water, sanitary, sewer and storm drain lines. The parties acknowledge that Owner disclosed subsurface conditions in the Invitation For Bid (IFB) No. 26-23-24 - Cagni Park North Project – Phase I issued by the City of North Miami on January 19, 2024, including all plans, specifications and documents referenced and attached therein and Addenda Nos. 1 through 5 issued by the City of North Miami pursuant to IFB No. 26-23-24 – Cagni Park North Project – Phase I, , including all plans, specifications and documents referenced and attached therein, (hereinafter collectively referred to as "Disclosure Documents") identifying the environmental subsurface conditions as known to Owner. The parties agree that Contractor shall be responsible for all costs of Work tied to said known conditions or as reasonably inferable therefrom. Should Contractor encounter unforeseen conditions not represented in said Disclosure Documents, not reasonably inferable therefrom, and not otherwise reasonably to be anticipated in light of the geographical characteristics of the Project site, then Contractor shall be entitled to pursue a reasonable adjustment in the Contract Time and Contract Sum as provided for elsewhere in this Agreement. It will comply with all federal, state and local governmental laws, rules and regulations relating to its responsibilities as set forth in the Contract Documents in the same manner as general contractors are expected to comply within the industry.

2.03.06 It is capable of providing appropriate schedules and determining construction sequences, means and methods and/or the like, to complete the Project in accordance with the requirements of the Contract Documents.

### **ARTICLE 3. COORDINATION AND CORRELATION OF DRAWINGS AND SPECIFICATIONS.**

3.01 The Contractor represents that:

3.01.01 The Contractor has fully examined and compared all Drawings, Specifications and other Contract Documents, including but not limited to, those relating to the architectural, structural, mechanical, electrical, civil engineering and plumbing elements, and have

compared and reviewed all general and specific details of the Drawings and the various technical and administrative requirements of the Specifications and represent they can construct the Work identified therein for the Contract Price and within the Contract time.

3.01.02 With respect to all construction materials, labor, methods, means, techniques, and sequence of procedures required to carry out the Work or safety precautions and programs required in connection with carrying out the Work, all conflicts, discrepancies, errors and omissions of which Contractor is aware as a result of the examination and comparison of the Contract Documents have been either corrected or clarified to Contractor's satisfaction before execution of this Contract.

3.01.03 The Contract Price is reasonable compensation and represents the total lump sum cost for the Work and that all systems and Work shall be in accordance with the requirements of the Contract Documents.

3.01.04 The Contract Time is adequate for the performance of the Work.

3.02 The Contractor is responsible for all means, methods, techniques and sequencing of Construction and is responsible for all acts, omissions and Work of its Subcontractors, Subsubcontractors, suppliers and anyone acting directly or indirectly through them.

3.03 If, after execution of this Contract, the Contractor detects a conflict, discrepancy, error or omission in the Contract Documents, then it shall immediately notify Architect and Owner in writing before proceeding with the specific portion of the Work.

#### **ARTICLE 4. INTENT AND INTERPRETATION.**

4.01 With the respect to the intent and interpretation of this Contract, the Owner and the Contractor agree as follows:

4.01.01 The Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the Contract Documents and immediately give written notice to the Owner and the Architect of any conflict, ambiguity, error or omission which the Contractor may find with respect to these documents before proceeding with the affected Work.

4.01.02 The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all.

4.01.03 The intent of the Contract Documents is to include all labor, materials, equipment and transportation necessary for the proper execution of the Work. The Contractor shall continually refer to the Drawings, Specifications and other Contract Documents in this regard.

4.01.04 In the event of a conflict among the Contract Documents, the order of precedence shall be change orders fully executed by the parties, the Construction Contract and then the plans and specifications.

4.02 The Architect shall be the initial interpreter of the requirements of the Contract Documents and the judge of the performance thereunder, subject to the dispute resolution procedures of this Agreement.

4.02.01 The Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor and shall render written decisions, within a reasonable time, on all claims, disputes, change order requests, substitution requests, requests for interpretation and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents. Such interpretations shall be subject to the dispute resolution procedures of this Agreement. Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents.

4.02.02 In the capacity of interpreter, the Architect shall endeavor to secure faithful performance from both the Owner and the Contractor, and shall not show partiality to either.

#### **ARTICLE 5. OWNERSHIP OF THE CONTRACT DOCUMENTS WHICH MAKE UP THE CONTRACT.**

5.01 Subject to any rights the Architect may have, the Contract Documents and each of them, as well as any other documents, intellectual property, software, computer- assisted material or disks relating to or regarding the Work, shall be and remain the property of the Owner. This shall be the case even if prepared, created or provided by the Architect, Contractor, Subcontractor or others.

5.02 The Contractor shall have the right to keep copies of the documents referenced in Section 5.01 upon completion of the Work; provided, however, that in no event shall the Contractor use, or permit to be used, any portion or all of same on other projects without the Owner's prior written authorization.

5.03 The Contractor agrees to provide copies of any and all items referred to in this Article 5 to Owner upon demand by Owner. In the event Contractor fails to provide same to Owner as demanded, Contractor acknowledges that the Owner will need same and will be irreparably harmed and be subject to an injunction to provide same.

#### **ARTICLE 6. TEMPORARY UTILITIES.**

6.01 Water For Building Work: The Contractor shall provide temporary water lines sufficient to supply all water needed for the construction and other services required by the Contract Documents and shall pay for all service connections and water used by the Contractor or Subcontractors unless the contrary is provided for elsewhere in the Contract Documents.

Electrical Energy: The Contractor shall provide temporary electrical energy and power lines sufficient to supply all electricity needed for the construction and other services required by the Contract Documents and shall pay for all service connections and electricity used by the Contractor or Subcontractors unless the contrary is provided for elsewhere in the Contract Documents.

## 6.02 Temporary Sanitary Facilities And Sewers:

6.02.01 The Contractor shall provide and maintain in a neat and sanitary condition such accommodations and facilities for the use of its employees, Subcontractors and Subsubcontractors as may be necessary to comply with the regulations of any governmental agencies, departments, etc. addressing or governing these issues.

6.02.02 No nuisance will be permitted.

6.02.03 Upon completion of Work, such facilities shall be removed and the premises left in a sanitary condition.

6.02.04 Contractor is not permitted to use restrooms or other sanitary facilities within any of the Owner's existing buildings or on-site facilities unless the contrary is provided for elsewhere in the Contract Documents.

## **ARTICLE 7. PROGRESS.**

7.01 Contractor shall provide the Owner with information as to its plans for performing each part of the Work. This shall include, but not be limited to, schedules provided to the Owner and subsequently updated schedules, reflecting then current conditions and planning, submitted to the Owner on a monthly basis. Owner's failure to request schedule updates shall not relieve Contractor from the obligation of preparing them for use in its own planning, sequencing and coordination.

7.01.01 Such schedules shall be in a form acceptable to the Owner.

7.01.02 The Contractor's schedule shall be updated no less frequently than every month (unless the parties otherwise agree in writing), shall be updated to reflect conditions encountered from time to time and shall apply to the total Project.

7.01.03 Each such revision shall be provided to the Owner and the Architect.

7.01.04 By providing these Schedules to Owner, Owner does not in any way acknowledge or consent that the Schedules are acceptable or reasonable, but is simply reviewing same for its own informational purposes. Contractor acknowledges Owner is not trained in schedule analysis and will not be reviewing any schedule or update thereto for validity, accuracy or reasonableness.

7.02 If at any time during the progress of Work, the Contractor's actual progress is inadequate to meet the requirements of the Contract Documents, such as the required completion dates, the Owner may so notify Contractor, who shall thereupon take such steps as may be necessary to improve its progress so as to complete the Work on or before the required Final Completion Date.

7.02.01 If within a reasonable period after written notice and an opportunity to cure, the Contractor does not improve performance to meet the requirements of the Contract Documents, such as the required completion dates, then the Owner may require an increase in any

or all of the following: Contractor's Subcontractor crews, Contractor's own labor force, the number of shifts worked by labor or crews, overtime operation, Contractor's supervision and additional days of work per week, all without cost to Owner.

7.02.02 Neither such notice by Owner nor Owner's failure to issue such notice shall relieve Contractor of its obligation to achieve the quality of work and rate of progress required by the Contract Documents.

7.03 Failure of Contractor to comply with the reasonable instructions of the Owner may be grounds for determination by Owner that Contractor is not prosecuting its Work with such diligence as will assure completion within the time specified and may be deemed a material breach of this Contract.

7.04 Upon such determination as referenced in Section 7.03, Owner, in addition to any and all other rights set forth in the Contract Documents and remedies afforded Owner under the Contract Documents or at law, may:

7.04.01 Elect to proceed with the Work with its own employees, agents, contractors, subcontractors, and suppliers and assess all costs, expenses or fees for same against Contractor; and/or

7.04.02 Terminate for cause Contractor's right to proceed with the performance pursuant to the Contract Documents, or any separable part thereof, in accordance with the applicable provisions of the Contract Documents, provided Owner first complies with notice requirements and an opportunity to cure as may be provided elsewhere in the Contract Documents.

## **ARTICLE 8. INTENTIONALLY OMITTED.**

## **ARTICLE 9. CONTRACT PAYMENTS.**

9.01 Schedule of Values:

9.01.01 The Contractor shall prepare the Schedule of Values for Owner's approval before submitting Contractor's first Application for Payment.

9.01.02 The Contractor's Schedule of Values apportions the Contract Price among the different elements of the required Work for purposes of periodic and final payments and shall be submitted as detail in support of the Contractor's monthly Application for Payment.

9.01.03 The Schedule of values shall be presented with such detail, and supported with whatever information, the Architect or the Owner reasonably requests.

9.01.04 The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof.

9.02 The Owner shall pay the Contract Price to the Contractor in accordance with the procedures set forth in the Contract Documents.

9.02.01 On or before the 15th day of each month after commencement of performance, but no more frequently than once monthly, the Contractor may submit an Application for Payment for the period ending the last day of the previous month or other pay period as mutually defined and agreed to in writing by the Contractor and Owner.

9.02.02 Said Application for Payment shall be in the format required elsewhere in the Contract Documents. Notwithstanding same, starting with the second Application for Payment, all Applications for Payment shall include partial unconditional waivers of lien for the prior pay period signed by Subcontractors, Subsubcontractors and suppliers in the form attached hereto as Exhibit 4. For every Application for Payment thereafter until the final Application for Payment, Contractor shall provide to Owner unconditional partial waivers of lien from Contractor and all its Subcontractors, Subsubcontractors and suppliers for the time period of the previous billing. For the final Application for Payment, Contractor shall provide to Owner a Final Payment Affidavit stating that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied. Failure to submit invoices in the prescribed manner will delay payment. Contractor's Applications for Payment shall also include that month's progress schedule update. If Contractor fails to include said update, Owner shall still process the Application for Payment and issue the payment required for a properly prepared and submitted Application for Payment, but the payment shall not be provided to Contractor until the schedule update has been provided to Owner.

9.02.03 In its Applications for Payment, Contractor may request payment for that part of the Contract Price allocable to Contract requirements properly provided and labor, material and equipment properly incorporated into the Project. The Owner shall pay the Contract Price to the Contractor in accordance with the procedures set forth in the Contract Documents, applicable Florida law, and the Florida Prompt Payment Act as set forth in Chapter 218 of the Florida Statutes.

9.02.04 To ensure Contractor's complete and satisfactory performance of its duties under this Contract, Owner shall withhold from each payment to Contractor an amount of five percent of each Application for Payment Contractor submits (hereinafter "retainage"). Each Application for Payment Contractor submits shall specify the amount of retainage attributable to, and to be withheld from, amounts due from Owner. Upon Substantial Completion of the Work of this Agreement, Owner and Contractor shall develop a list of items that are incomplete, incorrect and/or defective and all outstanding or threatened claims or any other matters which could cause the Owner damage, cost, expense or delay (hereinafter collectively referred to as "Outstanding Items") and the estimated cost to complete each item of Work on the list required to render complete, satisfactory and acceptable the Work of this Agreement. Owner and Contractor shall develop this list together, with any disagreements between them being resolved by the Architect. The list shall be developed within thirty calendar days after reaching Substantial Completion hereunder. The failure to include any corrective work or pending items not yet completed on the list does not alter Contractor's responsibility to complete all the Work under this Agreement. Within twenty business days after developing the list and after receipt of a proper payment application satisfying the requirements of this Agreement, Owner will pay Contractor the remaining balance of the Contract Sum, including any remaining retainage withheld by Owner, less an amount equal to 150% of the estimated cost to complete and/or resolve the Outstanding

Items. Upon completion and resolution of all Outstanding Items, Contractor may submit a payment request for all remaining retainage withheld by Owner. If a good faith dispute exists as to whether one or more of the Outstanding Items have been completed or resolved pursuant to this Agreement, Owner may continue withholding an amount not to exceed 150% of the total costs to complete or resolve such items. All items requiring correction under this Agreement that are identified after the preparation and delivery of the list referenced in this Section remain Contractor's obligation as defined by this Agreement.

9.02.05 The amount of each such payment shall be the amount recommended for payment by the Architect and approved by the Owner based upon percentage of completion of each line item in the Schedule of Values actually completed for that pay period less the amount of prior payments and retainage, as well as such amounts, if any, otherwise due from Contractor to the Owner or which the Owner shall have the right to withhold as authorized by the Contract Documents.

9.02.06 The Architect's approval of the Contractor's Applications for Payment shall not preclude the Owner from the exercise of any of its rights as set forth in the Contract Documents.

9.02.07 The submission by the Contractor of an Application for Payment constitutes an affirmative representation and warranty that all Work for which the Owner has previously paid is free and clear of any lien, claim, or other encumbrance by any person whatsoever; that the Work for which the Contractor requested payment in the Application for Payment complies with all requirements of the Contract Documents; and that the Application for Payment only requests payment for Work for which Contractor is entitled to payment under the Contract Documents.

9.02.08 Upon payment of each Application for Payment, title to all work covered by such payment shall be vested in the Owner.

9.03 When payment is received from the Owner, the Contractor shall within fifteen days' pay all Subcontractors, laborers and suppliers the amounts they are due for all Work covered by such payment.

9.04 Payments made under this Contract shall not constitute acceptance of defective or improper materials or Work nor shall same waive or release Owner's right to require proper and compliant future performance from Contractor in accordance with the Contract Documents.

## **ARTICLE 10. WITHHOLDING PAYMENT TO CONTRACTOR.**

10.01 In addition to retainage, payments, including, but not limited to, Final Payment, may be withheld or reduced by the Owner in its reasonable discretion if any of the following exists:

10.01.01 The Work is proceeding in such a manner that the Project is not reasonably expected to be complete by the Substantial Completion Deadline as may be extended by extensions of time provided by Owner in accordance with the procedures set forth in this Agreement. In that event, the Architect and/or the Owner will reasonably assess the anticipated delay and the Owner will use the amounts specified for Liquidated Damages as the basis for

amounts withheld. Said funds shall be held until such time as the Work is back on schedule or the delays are mitigated. By making said funds available to Contractor, Owner does not waive its right to assess Liquidated Damages after the Substantial Completion Deadline;

10.01.02 Liquidated Damages as set forth in this Contract;

10.01.03 Defective Work unremedied after written notice and an opportunity to commence and thereafter diligently pursue the cure as provided elsewhere in this Agreement;

10.01.04 Punch List items unremedied after written notice and an opportunity to commence and thereafter diligently pursue the cure as provided elsewhere in this Agreement;

10.01.05 Subject to Owner's written notice to Contractor and an opportunity to cure in accordance with the Contract Documents, backcharge items for Work performed by Owner or another contractor at the request of Owner, which Work is within the scope of the Work under the Contract Documents;

10.01.06 Failure to comply with any and all insurance requirements;

10.01.07 Failure of the Contractor to make payment properly to Subcontractors, suppliers or others in accordance with their respective agreements;

10.01.08 Damage to the Owner or another contractor that Contractor fails to commence to cure and thereafter diligently and continuously proceed to cure after written notice and an opportunity to cure as provided elsewhere in this Agreement;

10.01.09 Reasonable evidence that the Work will not be completed on or before the Final Completion Date due to the acts or omissions of Contractor;

10.01.10 Intentionally omitted.

10.01.11 Failure of the Contractor to submit the information or documents required by this Contract or reasonably required by Owner, including, but not limited to, schedules; or Breach of any other material provision of this Contract.

#### **ARTICLE 11. CONTRACTOR'S RIGHT UPON NONPAYMENT.**

11.01 If within forty-five days of the date payment to the Contractor is due, the Owner, without cause or basis hereunder, fails to pay the Contractor any amounts then due and payable to the Contractor, then, provided the nonpayment is due to Owner's acts or omissions and not due to the conduct of the Miami-Dade County School Board, the Contractor shall have the right to cease work until receipt of proper payment after first providing ten days written notice of its intent to cease work to the Owner, during which Owner may cure the nonpayment.



## **ARTICLE 12. INFORMATION AND MATERIAL SUPPLIED BY THE OWNER.**

12.01 The Owner furnished to the Contractor, prior to the execution of the Contract, Disclosure Documents upon which Contractor may rely as a representation and warranty as to the accuracy thereof.

12.02 The Owner shall also furnish, if appropriate, the legal description of the Project site, and any required survey.

## **ARTICLE 13. LICENSES AND PERMITS.**

13.01 All licenses necessary to commence and prosecute the Work to completion shall be procured and paid for by the Contractor.

13.02 All required permits, bonds and/or other fees required for Work to be performed, including, but not limited to, Work in public right-of-ways and other Work otherwise outside the Owner's property line will be procured by the Contractor and paid for by the Owner.

13.03 All easements and rights-of-way will be procured and paid for by the Owner unless otherwise specifically provided within the Contract Documents.

## **ARTICLE 14. CEASE AND DESIST ORDER.**

14.01 If Contractor fails or refuses to perform the Work as required herein, Owner may instruct the Contractor to cease and desist from performing the Work in whole or in part and shall identify the failure or refusal to perform the Work that led to the instruction to cease Work. Upon receipt of such instruction, the Contractor shall immediately cease and desist as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected and the Owner instructs that the Work may resume.

14.02 If Owner issues such instruction to cease and desist, and in the further event the Contractor fails and refuses within 10 calendar days of receipt of same to begin eliminating or correcting the cause of such instructions and thereafter diligently and continuously proceed with the elimination or correction, then the Owner shall have the right, but not the obligation, to carry out the Work with its own forces, or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such work by the Owner.

14.03 The rights set forth herein are in addition, and without prejudice, to any other rights or remedies the Owner may have against the Contractor under this Contract or applicable law.

## **ARTICLE 15. DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR.**

15.01 The Contractor shall perform the Work in accordance with the Contract Documents.

15.02 The Contractor shall supervise the Work and bear full responsibility for any and all acts or omissions of those directly or indirectly engaged in the Work on behalf of the Contractor, including, but not limited to, all Subcontractors, Subsubcontractors and suppliers.

15.03 The Contractor hereby warrants that all labor provided under this Contract shall be competent to perform the tasks undertaken, that the product of such labor shall comply with the Contract Documents, that all material and equipment provided shall be new and of high quality, and that the Work will be complete, of high quality, without defects, and in compliance with the requirements of the Contract Documents. Any Work not complying with the requirements of this Subparagraph shall constitute a material breach of this Contract and the Contractor's warranty.

15.04 The Contractor shall obtain all required permits, fees, and licenses and comply with all legal requirements applicable to the Work. However, to the extent that any such permit fees are assessed, they are to be paid or reimbursed by the Owner.

15.05 The Contractor shall prepare and submit schedules and supporting documentation as required elsewhere in the Contract Documents.

15.06 Record Keeping on Site:

15.06.01 The Contractor shall keep a daily log, an updated copy of the Contract Documents, approved shop drawings and other submittals, and other documents and materials as required by the Contract Documents at the site. The daily logs shall reflect at a minimum the names of Subcontractors working on site and their crew sizes, the weather, a description of the Work being performed and a statement of any concerns or issues arising that day.

15.06.02 All of these items shall be available to the Owner and the Architect at all regular business hours.

15.06.03 Upon Final Completion of the Work, all of these items shall be finally updated, provided to the Owner and shall become the property of the Owner.

15.07 Shop Drawings And Other Submittals:

15.07.01 The Contractor shall submit for approval with reasonable promptness and in a timely manner so as to cause no delay in the Work, all necessary submittals for the performance of the Work, including shop drawings as required for the Work of the various trades.

15.07.02 These shop drawings and other submittals shall be in accordance with the requirements of the Contract Documents and be carefully checked in every respect and signed by the Contractor before submitting same to the Architect.

15.07.03 Shop drawings and other submittals from the Contractor are not part of the Contract Documents, but are documents prepared and utilized by the Contractor to coordinate the Work.

15.07.04 The Contractor shall not do any Work requiring shop drawings or other submittals unless such have been approved in writing by the Architect.

15.07.05 All Work requiring approved shop drawings or other submittal shall be done in compliance with such approved documents. However, approval by the Architect or the Owner shall not be evidence that Work installed pursuant thereto conforms with the requirements of the Contract Documents. Contractor shall clearly note on each shop drawing or submittal any deviations from the requirements of the Contract Documents before submitting them to the Architect for approval. Failure to do so shall not relieve the Contractor from liability for non-conformance with the Contract Documents, even if the Architect approves such shop drawing or submittal.

The Owner and the Architect shall have no duty to review partial or incomplete submittals except as may be provided otherwise within the Contract Documents.

15.07.06 The Contractor shall maintain a submittal log which shall include, at a minimum, the date of each submittal, the date of response, the date of any resubmittal, the date of any approval or rejection, and the reason for any rejection.

15.07.07 The Contractor shall have the duty to carefully review, inspect and examine any and all submittals and resubmittals for completeness and accuracy before submitting same to Owner or the Architect.

15.08 The Contractor shall maintain the Project site in a reasonably clean condition during performance of the Work. Upon Substantial Completion, the Contractor shall thoroughly clean the Project site of debris, trash and excess materials or equipment. In the event the Project is located at or near occupied facilities, then Owner may establish additional rules and regulations regarding conditions at the Project, including, but not limited to, keeping the Project and the occupied premises clean, safe and secure.

15.09 At all times, the Contractor shall permit the Owner and the Architect to enter upon the Project site and review or inspect the Work.

## **ARTICLE 16. SUBCONTRACTS.**

16.01 The Contract Documents make no attempt to fix the scope of the Work of any Subcontractor nor the responsibilities of any such Subcontractor, it being understood that the Contractor shall fix the scope of all Work and responsibilities of the Subcontractor. The Contractor shall enter into written agreements with all Subcontractors and suppliers.

16.01.01 Contractor shall provide to Owner a written notice of all subcontractors. Related Party Transactions: the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above. If any of the costs proposed for performing the Work of this Agreement arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party, the nature of the relation to Contractor and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes in writing the proposed transaction,

the Contractor shall procure the work, equipment, goods or service from the related party as a Subcontractor according to the terms of this Agreement. If the Owner fails to authorize in writing the transaction, the Contractor shall procure the work, equipment, goods or service from some person or entity other than a related party according to the terms of this Agreement.

16.02 The Contractor shall continuously update information concerning Subcontractors submitted to the Owner as Subcontractors are retained by submitting:

16.02.01 Updated listings of Subcontractors denoting changes to the list previously submitted within ten calendar days of said change.

16.03 All contracts with Subcontractors shall incorporate by reference the terms and conditions of the Contract Documents and specifically this Agreement.

16.04 The Contractor shall cause and require to be included in all Subcontracts a provision for the benefit of the Owner binding the Subcontractors to remain bound by the Subcontracts in the event the Contractor is replaced by another contractor pursuant to the terms of the Contract Documents and Owner chooses to accept assignment of any or all subcontracts. The Contractor shall include in all subcontracts a provision requiring the Subcontractor, in the event of the Contractor's termination and upon Owner's exercise of its sole and exclusive option to accept assignment of any or all subcontracts, to consent to the assignment of their subcontracts to the Owner.

16.05 The Owner may at any time request from the Subcontractors, or any of them, a sworn statement of their account with the Contractor and the Contractor shall cause to be included in all Subcontracts a requirement that the Subcontractors provide said sworn statement upon Owner's request.

16.06 Each Subcontractor and supplier must agree to assign all of its warranties to Owner. In addition, each Subcontractor and supplier must warrant all of its Work, equipment, materials and labor to Owner in accordance with the terms and provisions of its contractual obligations to Contractor.

In the event of any disputes which may arise between the Contractor and any Subcontractor, the Owner will not undertake, nor be in any way responsible for, the settlement of such disputes.

16.07 No Subcontractor shall under any condition relieve the Contractor of its liabilities and obligations to the Owner under this Contract. Contractor shall at all times be responsible to the Owner as provided herein.

#### **ARTICLE 17. INTENTIONALLY OMITTED.**

#### **ARTICLE 18. CONTRACTOR'S SUPERINTENDENT AND PROJECT MANAGER.**

18.01 Before starting the Work, Contractor shall designate an English speaking, competent, authorized representative (hereinafter "Superintendent"), acceptable to the Owner, to represent and act for the Contractor onsite. The Contractor shall:

18.01.01 Inform Owner, in writing, of the name and email address of such representative together with a clear definition of the scope of his or her authority to represent and act for Contractor and shall specify any and all limitations on such authority.

18.01.02 Keep the Owner informed of any subsequent changes in the foregoing.

18.02 The Superintendent shall be present or duly represented at the site of the Work at all times when the Work is actually in progress.

18.03 During periods when portions of the Work are suspended, arrangements for an authorized representative acceptable to Owner shall be made for any emergency which may be required.

All notices, determinations, instructions and other communications given in writing to the Contractor's Project Manager shall be just as binding upon the Contractor as if it was provided to the Contractor's Representative identified elsewhere in this Agreement.

#### **ARTICLE 19. COOPERATION WITH OTHERS.**

19.01 The Owner and its Other Contractors and subcontractors may be working at the site during the performance of the Work and Contractor's Work may be interfered with as a result of such concurrent activities. Contractor shall fully cooperate with Owner and Other Contractors to avoid any delay or hindrance in the Work. Owner may require that certain facilities be used concurrently by Contractor and Other Contractors and Contractor shall comply with such requirements.

19.02 If any part of the Contractor's Work depends on proper execution or results from any work performed by the Owner or any Other Contractor, the Contractor shall, before proceeding with the Work, promptly report to the Owner any discrepancies or defects in such work that it actually discovers or reasonably should have discovered that render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acceptance of the work of Owner or Other Contractor's as fit and proper to receive Contractor's Work, except as to defects which may subsequently become apparent in such work performed by others.

#### **ARTICLE 20. SITE CONDITIONS.**

20.01 Other than the representations included in the Disclosure Documents which Owner provided to Contractor before execution of this Agreement and as represented in the design plans and specifications, Contractor shall have the sole responsibility to conduct reasonable inspection of the site and to satisfy itself concerning the nature and location of the above ground conditions of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of material; availability and quality of labor, water and electric power; availability and condition of roads; climatic conditions; location of underground utilities; governmental processes and requirements for obtaining permits other than issuance of the original building permits, certificates of occupancy and other regulatory/utility approvals; physical conditions at the Work sites and the Project area as a whole; topography and ground surface conditions; and nature and quality of surface materials to be encountered; equipment and facilities needed preliminary to and during

performance of the Work; and all other matters which can in any way affect performance of the Work or the cost associated with such performance.

20.02 The failure of Contractor to acquaint itself with any applicable condition will not relieve it from the responsibility for properly and timely performing its Work hereunder for the Contract Price and within the Contract Time.

20.03 Contractor may rely upon site documentation provided by the Owner. If site conditions are materially different than what Contractor anticipated as a result of Contractor's inspection of the property or tests, information or data supplied to Contractor by others such as design professionals or testing companies, or are materially different than conditions reasonably expected to exist on the Project site, then Contractor may seek an adjustment in time or price based upon same provided that Contractor gives Owner written notice of same within 10 days of discovery of the differing site condition. Said request for change in time or price shall be addressed in the same manner as a Change Order pursuant to the terms of this Agreement.

20.04 Any damage to public and/or private property resulting either directly or indirectly from the execution of the Work by Contractor shall be repaired or replaced at Contractor's sole expense in a manner acceptable to Owner. Such properties may include, but is not limited to, roads, driveways, sod, walls, underground utilities, trees, landscaping, etc.

20.05 Before commencing Work, Contractor shall submit to Owner photographs and/or video recordings of any pre-existing damage to the roadways, driveways, tree trunks or limbs, approaches, sod, facilities, utilities, and ancillary improvements located at the Project site and/or any surrounding areas to be accessed and/or utilized by Contractor. Failure to properly document such pre-existing conditions and submit said documentation as required may render Contractor liable to repair any such damage at no expense to Owner.

## **ARTICLE 21. RESPONSIBILITY FOR WORK SECURITY.**

21.01 Contractor shall at all times conduct, at its expense, all operations under this Contract in a manner to avoid the risk of loss, theft or damage by vandalism, sabotage or other means to any property.

21.01.01 Contractor shall promptly take such reasonable precautions as are necessary and adequate against any conditions which involve risk of a loss, theft or damage to its property.

21.01.02 Contractor shall continuously inspect all of its Work, materials, equipment and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such condition.

21.02 Contractor shall comply with all applicable laws and regulations.

21.02.01 Contractor shall cooperate with Owner on all security matters as set forth elsewhere in the Contract Documents. The cost for security guards and other security related costs is not included in the Contract price so if it's required, Owner agrees to compensate Contractor for same through a Change Order.

21.02.02 Compliance with these security requirements shall not relieve Contractor of its responsibility for maintaining property security for the above noted items, nor shall it be construed as limiting in any manner Contractor's obligation to undertake reasonable action as required to establish and maintain secure conditions at the site.

21.03 Contractor shall prepare and maintain accurate written reports of incidents of loss, theft or vandalism and shall promptly provide these reports to Owner.

## **ARTICLE 22. PROTECTION OF WORK IN PROGRESS, MATERIALS AND EQUIPMENT.**

22.01 Contractor shall be responsible for and bear any and all risks of loss or damage to Work in progress, all materials delivered to the site, and all materials and equipment involved in the Work until Substantial Completion of the Work under this Contract, except as may be stated otherwise in this Agreement.

22.02 Permanent openings for the introduction of Work and materials to the structure and construction site shall be protected so that, upon completion, the Work will be delivered to the Owner in proper, whole and unblemished condition.

## **ARTICLE 23. ADMINISTRATION OF THE CONTRACT.**

23.01 The Architect will provide Administration of the Contract as set forth elsewhere in the Contract Documents.

23.01.01 If Owner should need to replace the Architect as Contract administrator, the Owner shall either retain a replacement or fill the role of replacement itself and the role of the replacement shall be the same as the role of the original Architect in the context of Contract administration only.

23.02 Unless otherwise directed by the Owner in writing, the Architect will perform those duties and discharge those responsibilities allocated to the Architect in this Agreement.

23.03 Neither the Architect nor the Owner will be responsible for construction means, methods, techniques, sequences or procedures, safety precautions and programs in connection with the Work or the acts or omissions of the Contractor, its Subcontractors, Subsubcontractors, suppliers or their agents or employees.

23.04 The Architect and Owner will each have the authority to reject Work not conforming to the Contract Documents and to require special inspection or testing with prior approval by the Owner. Neither the Architect's nor the Owner's authority to act under this Paragraph, nor any decision made by them in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Architect or the Owner to the Contractor, any Subcontractor, any of their agents or employees, or any other person or entity performing any of the Work.

23.05 The Contractor shall forward all communications required under this Agreement to the Architect, with simultaneous copies to the Owner.

23.06 The Architect will review and certify the Contractor's Application for Payments which the Owner must subsequently approve before payment is due to Contractor.

23.07 The Architect shall approve shop drawings for compliance with the design, the Contractor being responsible for all dimensions, quantities, etc., necessary to complete the Work in compliance with the Drawings, Specifications and other Contract Documents. Contractor shall be liable for all deviations from the Contract Documents in any shop drawings or submittals unless such deviations were clearly indicated in the shop drawings or submittals when submitted to the Architect for approval and the Architect approved same before the Work was performed or materials supplied in reliance thereon.

23.08 The duties, responsibilities and limitations of authority of the Architect and the Owner will not be modified nor extended without written consent of the Contractor, the Architect, and the Owner.

23.09 Notwithstanding anything to the contrary in this Contract, nothing herein shall act as a release, limitation or discharge of the obligations or responsibilities of the Architect pursuant to its agreement with the Owner.

#### **ARTICLE 24. MATERIALS.**

24.01 The Contractor shall provide materials and equipment as required in the Contract Documents. Other than as provided elsewhere in the Contract Documents, no substitution will be permitted except in the instance where a material is no longer available during the progress of the Work, is deemed by the Owner to be no longer suitable or appropriate for incorporation into the Work or for obvious economic benefits accruable to the Owner.

24.01.01 Any such substitution must be approved in writing by the Architect and Owner before incorporation of the proposed substitution into the Work.

24.01.02 Proposed substitutions must be submitted by Contractor to the Architect and the Owner for consideration before incorporating the proposed substitution into the Project. Documentation for the proposed substitution must include, but not be limited to, substantiation of the Contractor's efforts to obtain the originally specified materials, including documentary evidence from the original material's manufacturer that such materials are not available.

24.01.03 Product delivery lead times shall not serve as a basis for any substitution request except for where approved in writing in advance by the Owner. The Contractor, through its schedule updates, is expected to plan for timely delivery of long lead time materials and equipment.

24.01.04 All additional costs incurred as the result of any substitution will be the direct responsibility of and borne by the Contractor, except to the extent approved by the Owner.

24.02 The Contractor shall make written request to the Architect for, and obtain the Architect's written approval of, the use of any materials proposed for use when "approval" materials are specified or a performance type specification is utilized without mentioning any standard by name.



24.03 If, in the Architect's opinion, a specified product or equipment no longer meets the quality of the products or equipment required for the Work, Architect shall request a Change Order Proposal from the Contractor for modifying the Contract to incorporate the respective changes to the Work required, the Contract Price, and the Contract Time.

## **ARTICLE 25. STORED MATERIALS.**

25.01 Contractor shall, at its expense, receive, unload, store in a secure place, and deliver from storage to the construction site all materials and equipment required for the performance of the Contract.

25.01.01 Contractor is not entitled to payment for same except for those materials which in Owner's discretion are properly stored.

25.01.02 The storage facilities and methods of storing shall meet Owner's approval and be in accordance with manufacturer's recommendations, or Owner will not be obligated to pay for same.

25.01.03 Materials and equipment subject to degradation by outside exposure shall be stored in a weather tight enclosure provided by Contractor at its expense.

25.02 Provided the above conditions are met, the stored materials may be included in a subsequent Application for Payment if the Contractor also complies with the following:

25.02.01 An applicable purchase order is provided listing the materials in detail and identifying the Contract Documents, by name, that required the materials, with verification that the total value of the purchase order amount reconciles with the corresponding Application for Payment stored materials line item value.

25.02.02 Evidence that proper storage security is provided.

25.02.03 The Owner is provided legal title (free of liens or encumbrances of any kind) to the material that is stored or stockpiled once payment has been made for it.

25.02.04 The Contractor and/or its Subcontractor have provided insurance for the stored materials against loss, damage (from whatever source), or disappearance, including loss or theft prior to incorporation into the Work. By execution of the Contract, Contractor releases Owner from any responsibility for stored materials and assumes all liability for and risk of loss or damage, by whatever means, including Owner's alleged negligence, regardless of whether the Owner has paid for said stored materials.

25.03 Once any stored material is paid for by Owner, it shall not be removed from the designated storage area except for incorporation into the Project or upon subsequent written approval by Owner.

25.04 No Applications for Payment shall be submitted nor payments made based on the value of materials stored at locations other than the Project, unless otherwise approved in advance in writing by the Owner.

25.05 It is further agreed between the parties that the transfer of title and the Owner's payment for any stored material pursuant to the Contract Documents shall in no way relieve the Contractor of the responsibility for protecting, providing and installing such material in accordance with the requirements of the Contract Documents.

25.06 The Contractor warrants that title to all of the Work or stored materials covered by an Application for Payment will pass to the Owner either by incorporation in the Project or upon receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security, interest or encumbrance; and that none of the Work and none of the stored materials covered by the Applications for Payment will have been acquired by the Contractor, or any other person or entity performing the Work at the site or providing materials and equipment to the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained or otherwise imposed by the seller.

#### **ARTICLE 26. WORKFORCE COMPOSITION.**

26.01 The Contractor shall employ no illegal aliens or other individuals not properly registered with and allowed to work by the United States Immigration and Naturalization Service (INS). The Contractor further represents and warrants that it will fully comply with federal and state laws regarding employment eligibility, including, but not limited to, Florida Statutes § 448.095, which requires the use of the E-Verify system to confirm the eligibility of all newly hired employees within three business days from the date of hire. The Contractor shall register with and use the E-Verify system to verify the work authorization status of all new employees and shall require all subcontractors to do the same. The Contractor shall not employ, or knowingly permit any subcontractor to employ, any unauthorized alien to perform work under this Agreement. The Contractor further agrees to maintain records of its compliance with this Section and to provide such records to the Owner upon request.

#### **ARTICLE 27. INSPECTION: REJECTION OF MATERIALS AND WORKMANSHIP.**

27.01 All material and equipment provided and Work performed shall be properly inspected by Contractor, at its expense, and at all times be subject to quality surveillance, inspections, observations or quality audit by Owner, Architect and any inspectors conducting an inspection pursuant to code, law, regulations, etc.

27.01.01 Contractor shall provide safe and adequate facilities, and all samples, drawings, lists and documents necessary for such quality surveillance, observation or quality audit.

27.01.02 The Contractor shall permit and facilitate inspection of the Work by the Owner, Architect, and inspectors for any governmental agency, authority, or board.

27.01.03 Owner also reserves the right to designate others such as consultants, commissioning authorities, test and balance agents, forensic specialists, etc. to inspect during or after performance of the Work as Owner in its discretion desires.

27.01.04 Owner and Architect shall be afforded reasonable access to the shops, factories or places of business of Contractor and its Subcontractors for such quality surveillance, observation or quality audit and to determine the status of the Work.

27.01.05 If Architect or Owner requires a factory inspection, they shall so advise Contractor in writing.

27.02 If any Work should be covered up without appropriate approval or consent of the building department or other authority having jurisdiction over the Project, it must, if required by such authority, be uncovered for examination at the Contractor's expense.

27.03 If any material, equipment or Work is determined by Owner, Architect or any inspector, either during performance of the Work, on final quality surveillance, or during any applicable warranty period, to be defective or not complying with the requirements of the Contract Documents, Owner, Architect or the inspector will notify Contractor in writing that such material, equipment or portions of the Work is rejected and Owner reserves the right to withhold payment for any such item or seek compensation from Contractor for same. Thereupon, Contractor shall, at its own expense, immediately remove, replace or correct such defective material, equipment or portions of the Work by making the same comply strictly with all requirements of the Contract Documents. The Contractor shall be responsible for the costs of any additional site observations, special inspections, testing, and/or other activities of either the Architect or the Owner made necessary by the correction of such defective materials, equipment or portions of the Work and any re-inspections required from the building department or their inspectors.

27.04 Neither the failure to make such quality surveillance, observation or quality audit, nor to discover defective Work, materials, or equipment, shall prejudice Owner's rights to correct or reject the same as provided herein.

## **ARTICLE 28. WARRANTY.**

28.01 Unless otherwise provided elsewhere in the Contract Documents, all material and equipment incorporated into any Work covered by the Contract Documents shall be new and, where not specified, of the most suitable grade of their respective kinds for their intended use.

28.02 Unless otherwise provided in the Contract Documents, Contractor warrants all Work, equipment, and materials to be proper and workmanlike, in accordance with the Contract Documents and any and all applicable codes pertaining to means and methods, and free from defects for a period of twelve months (unless longer guarantees or warranties are provided for elsewhere in the Contract Documents, in which case the longer periods of time shall prevail) from and after Final Completion of the Work under the Contract Documents, regardless of whether the same were provided or performed by Contractor or by any Subcontractor.

28.03 In the event of damage or injury to persons or property or other consequential or resultant damages resulting from Contractor's breach of any warranties, then the Contractor will be responsible for same.

## **ARTICLE 29. INTENTIONALLY OMITTED.**

## **ARTICLE 30. PROJECT RECORD DOCUMENTS AND SURVEY.**

30.01 Contractor will keep a marked-up record set of the Contract Documents and other Project records as required elsewhere in the Contract Documents up to date on the jobsite at all

times. These documents will be given to the Architect upon the completion of the Work as required by the Contract Documents and properly labeled as “Project Record Documents.”

30.02 The Contractor shall submit Project Record Documents to Owner upon Final Completion in the manner and format specified elsewhere in the Contract Documents. This is a condition precedent to final payment and final payment will be withheld from the Contractor until “Project Record Documents” are provided by the Contractor to the Owner and approved by the Architect.

## **ARTICLE 31. SALVAGE.**

31.01 Any salvage resulting from clearing, grubbing, grading, draining, remodeling or altering any existing facilities on this site shall be the property of the Owner; and this material shall be piled or stacked on the site if the Owner desires this material.

31.02 If this material is not desired by the Owner, it shall be disposed of by the Contractor at Contractor’s expense.

## **ARTICLE 32. CLAIMS BY THE CONTRACTOR.**

32.01 Any claims by the Contractor against the Owner are subject to the following terms and conditions:

32.01.01 All Contractor claims against the Owner shall be initiated by a written claim submitted to the Owner and the Architect. Such claim shall be received by the Owner and the Architect no later than fifteen calendar days after the occurrence of the event giving rise to the claim, or the first appearance of the circumstances causing the claim, and shall set forth in detail all known facts and circumstances supporting the claim and the actual damages or injuries suffered. In the event of a time-based claim, then, in addition to the above-referenced fifteen-day notice of claim, Contractor shall also submit a time impact analysis and estimate of damages within thirty calendar days after the occurrence of the event giving rise to the claim or the first appearance of the circumstances supporting the claim;

32.01.02 The Contractor shall continue its performance hereunder regardless of the existence of any claims submitted by the Contractor. Ceasing performance due to a pending claim shall be a material breach of this Contract by Contractor.

32.01.03 Compliance with the above-foregoing notice requirements shall be a strict condition precedent to any claim by the Contractor and such claim shall be made by the Contractor before proceeding to execute any additional or changed Work. Failure of the condition precedent to occur, i.e., failure to provide notice as required by this Article, shall constitute a complete waiver by the Contractor of any claim for additional compensation or extension of time. This written notice requirement may not be waived by verbal representations, the acts of representatives of the Owner or Architect nor any claim of actual or constructive knowledge of the Owner as to such claim.

32.01.04 In connection with any approved claim of the Contractor against the Owner for additional compensation, Owner’s liability shall be strictly limited to direct costs of

labor and materials incurred by the Contractor at the jobsite, which shall not include any subcontractor or supplier claims other than for actual costs of labor and materials incurred, and shall in no event include indirect cost, profit, overhead, or consequential damages.

### **ARTICLE 33. CHANGE ORDERS.**

33.01 One or more changes to the Work within the general scope of this Contract may be ordered by the Owner by Change Order, Architect's Supplementary Instructions, and Construction Change Directives.

33.02 The Contractor shall proceed with any extra Work or changes which alter the Contract by adding to, or deducting from, the Contract Sum or Contract Time in strict accordance with the following terms and conditions:

33.02.01 "Change Order" shall mean a written order to the Contractor executed by the Owner, Contractor and Architect after execution of this Contract, directing a change in the Work and may include a change in the Contract Price or the time for the Contractor's performance, or any combination thereof;

33.02.02 Any change in the Contract Price or time resulting from a Change Order shall be determined as follows:

(a) By mutual agreement between the Owner and the Contractor as evidenced by (a) the change in the Contract Price or Contract Time being set forth in a written Change Order in accordance with the terms of this Agreement, and (b) the execution of the Change Order by Owner, Contractor and Architect; or,

(b) If no mutual agreement is reached between the Owner and the Contractor, the change in the Contract Price, if any, shall be derived based upon the "cost plus price" basis by determining the total actual costs incurred or savings achieved, resulting from revisions in the Work. Such total actual costs or savings shall include a component for direct jobsite overhead and profit, but under no circumstances shall it include non-job site overhead expenses or costs or any other indirect costs or components. Any such costs or savings shall be documented in the format, and with such content and detail, as the Owner and/or the Architect requires. If agreement is not reached as to the change in Contract Time, Contractor shall be given a reasonable time based upon the scope of Work required by the change, as recommended by the Architect and determined by Owner, subject to the dispute resolution procedures of this Agreement.

33.02.03 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work and the change in the Contract Price and Contract Time for performance by the Contractor. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for issues or matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order, except as is evidenced in the written Change Order itself.

33.02.04 The Contractor shall notify and obtain the consent and approval of the Contractor's Surety with reference to all Change Orders and provide such consent as the Surety may require. The Contractor's execution of the Change Order shall constitute the Contractor's representation to the Owner that the Surety has been notified of, and consents to, such Change Order and the Surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

33.02.05 The Owner, without invalidating the Contract, may require a change for any reason whatsoever. All such Work shall be executed under the terms of the original Contract except as modified by the written Change Order.

33.02.06 All change orders and adjustments to the Contract Price and/or Contract Time shall, as an express condition precedent, be in writing and executed by the Contractor, Architect and Owner; otherwise, no claim for additional compensation or time will be allowed.

33.02.07 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be the total actual cost saved as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the overhead and profit shall be calculated on the basis of net increase with respect to that change.

33.02.08 The Contractor is obligated to proceed with the Work for a Change Order, even though there has not been an agreement reached with the Owner as to an adjustment to the Contract Price or Contract Time if the Architect issues a Construction Change Directive as specified elsewhere in the Contract Documents. Contractor shall be entitled to bill and be paid for any undisputed amounts in connection with the Construction Change Directive.

33.03 The Architect will have authority to order minor changes in the Work not involving an adjustment to the Contract Price or Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and the Contractor.

#### **ARTICLE 34. DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK.**

34.01 If Contractor covers, conceals or obscures its Work in violation of this Contract or a directive from the Owner or the Architect, such Work shall be uncovered and displayed for the Owner's or Architect's inspection upon request and shall be reworked, all at no cost in time or money to the Owner.

34.02 If any of the Work is covered, concealed or obscured in a manner that does not violate a provision of this Contract or directive from the Owner or Architect, then, if directed by the Owner or the Architect, the Work shall be uncovered and displayed for the Owner's or Architect's inspection. If the uncovered work conforms substantially with this Contract, the costs incurred by the Contractor to uncover and subsequently replace such Work shall be borne by the Owner; otherwise, such costs shall be borne by the Contractor.

34.03 The Contractor shall, at no additional cost in money to the Owner or extension of Time, correct work rejected by the Owner or the Architect as defective or failing to conform to this Contract. Additionally, the Contractor shall reimburse the Owner for all testing, inspections and other expenses incurred as a result thereof.

34.04 In addition to its warranty obligations set forth elsewhere herein, the Contractor shall be specifically obligated to correct any and all defective or nonconforming Work for a period of twelve months following Substantial Completion upon written direction from the Owner, except as to Work performed after Substantial Completion, in which event the warranty on said Work shall commence running as of the date of Final Completion.

34.05 The Owner may, but shall in no event be required to, choose to accept defective or nonconforming Work. In such event, the Contract Price shall be reduced, at Owner's option, by the greater of (i) the reasonable costs of removing and correcting the defective or nonconforming Work, or (ii) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a 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 the acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

#### **ARTICLE 35. SAFETY AND PROTECTION OF WORK AND PROPERTY.**

35.01 Contractor shall be fully and solely responsible for conducting all operations under this Contract at all times in such a manner as to avoid the risk of bodily harm to persons and damage to property. Contractor shall continuously and diligently inspect all Work, material and equipment to discover any conditions which might involve such risks and be solely responsible for discovery and correction of any such conditions.

35.02 Contractor shall instruct its personnel on the requirements of the Contractor's safety program and coordinate with Other Contractors and Subcontractors on safety matters.

35.03 Contractor shall provide safety equipment and enforce the use of such equipment by its employees.

35.04 Contractor shall maintain accurate accident and injury reports and provide to Owner a monthly summary of injuries. The notice to Owner may be in email form and shall be due by the last day of every month.

35.05 Contractor shall maintain all portions of the Work in a neat, clean and sanitary condition at all times.

35.06 Contractor shall assure that all Subcontractors shall, without expense to Owner, comply with the foregoing.

35.07 Contractor shall comply with any and all rules, regulations, laws, etc. applying to safety requirements, including, but not limited to, OSHA requirements.

### 35.08 Safety Precautions and Programs:

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

35.08.02 If Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner, Contractor and Architect.

35.08.03 The Contractor shall not be required to perform without its consent any Work relating to asbestos or polychlorinated biphenyl (PCB).

### 35.09 Safety of Persons and Property.

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

(a) Employees on the Project and other persons who may be affected thereby;

(b) The Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Subsubcontractors; and

(c) Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

(a) The Contractor and its Subcontractors shall comply with and conform in all respects to the standards set forth in the Occupational Safety and Health Act (OSHA) of 1970.

(b) The Contractor shall prominently post and maintain on the jobsite:

(i) OSHA 200: Log and summary of occupational injuries and illnesses.

(ii) OSHA 2203: Provisions of the Act poster.



35.09.03 The Contractor shall implement and maintain a continuing safety program applicable to all Contractor employees, Subcontractors, and Subsubcontractors, to include:

(a) Designating a responsible member of the Contractor's organization at the site as the Contractor's "Safety Officer" whose duty shall be the prevention of accidents, conduct of safety inspections, and accident documentation. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Owner and the Architect.

(b) Holding weekly safety meetings with employees and Subcontractors.

(c) Implementing OSHA Voluntary Protection Programs.

(d) Compliance with applicable laws regarding a drug free workplace.

(e) Erecting and maintaining reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(f) Ensuring that employees are not discriminated against or discharged for filing reasonable safety or health complaints or otherwise exercising their rights in these regards.

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

35.09.05 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Subsubcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be directly or indirectly liable, except damage or loss attributable to acts or omissions of the Owner, Architect, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be directly or indirectly liable, and not attributable to the fault or negligence of the Contractor.

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

35.09.07 Building materials, Contractor's equipment and other supplies may be stored on the premises, but shall be placed in substantial, watertight storage sheds upon the premises where directed by Owner to be protected from the weather. This shall in no manner relieve the Contractor from full responsibility for such materials, equipment and supplies. Sheds and other storage structures must be secured and anchored in a manner sufficient to withstand hurricane force winds as defined by applicable codes but not less than a 120 mile per hour wind uplift force.

35.10 **Emergencies:** In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss.

35.11 Contractor shall be solely responsible for pedestrian and/or vehicular safety and guidance within the Project site and provide the necessary warning devices, barricades and ground personnel to give safety, protection and warning to persons and vehicular traffic within the area (i.e., maintenance of traffic). All safety devices must have suitable and sufficient lighting for the prevention of accidents and meet the minimum standards mandated by Federal, State, and local laws and regulations during all times until the Project is completed and accepted Owner.

35.12 Precautions shall be exercised at all times for the protection of persons and property. Contractor shall be responsible for ensuring that all Work carried out under this Contract shall conform to all relevant OSHA, State and City regulations during the entire course of this project. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by the Contractor. Barricades shall be provided by the Contractor when Work is performed in areas traversed by persons or when deemed necessary by the City. Contractor shall assume full responsibility for any damage to any mangroves, land, or areas or to the owner or occupant of any contiguous land, areas, or property resulting from the performance of Work. Contractor shall cause a minimum of inconvenience to the public and local business activities and ensure that the public roadways and any improvements in the vicinity of the Work site remain open to the public whenever it does not pose a safety and/or health hazard. Contractor shall at all times during the performance of Work keep the Work site free and clear of all rubbish and debris. Any material or waste generated by Contractor or its employees, agents, and Subcontractors shall be removed and disposed of by the Contractor at its expense to Owner's satisfaction. If Contractor fails to remove all rubbish, debris, materials, and waste from the Work site, Owner may employ labor and equipment necessary to clear the site and charge Contractor for Owner's cost incurred cleaning the site, which may be deducted from payments then or thereafter due to Contractor under this Contract. Contractor shall restore in an acceptable manner or replace all property, both public and private, which has been displaced or damaged by the Contractor during the execution of the Work. Contractor shall leave the Work site unobstructed and in a neat and presentable condition. The term "property" shall include, but is not limited to, roads, sidewalks, curbs, driveways, walls, fences, landscaping, awnings, utilities, footings, and drainage structures. Contractor shall maintain suitable and sufficient guards, barriers, and lighting for the prevention of accidents. The Contractor shall comply with all applicable minimum safety standards required by local, county, state, and federal regulations.

#### **ARTICLE 36. ROYALTIES AND PATENTS.**

36.01 The Contractor shall pay all royalties and license fees.

36.02 The Contractor shall be responsible for all infringement of patent rights and assume the defense, including payment of attorney fees and costs, of any suit brought against Contractor and/or Owner for infringement of any United States patent unless such infringement results from Contractor's proper compliance with the Contract Documents.

36.03 Contractor hereby indemnifies and shall defend and hold harmless Owner and its Representatives from and against all claims, losses, costs, damages, and expenses, including

attorney's fees, incurred by Owner and its representatives as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent, copyright or trademark arising out of the use of the equipment, materials or design provided under this Contract or out of the process of actions employed by, or on behalf of, Contractor in connection with the performance under this Contract, unless such infringement results from Contractor's proper compliance with the Contract Documents. Contractor shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by Owner or its representatives; provided that Owner or its representatives shall have notified Contractor upon becoming aware of such claims or actions, and provided further, that Contractor's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by Owner or its representatives.

36.04 Contractor shall have the right, upon prior written approval of Architect and Owner in order to avoid such claims or actions, to substitute at its expense non-infringing equipment, materials, or processes, modify such infringing equipment, materials and processes so they become non-infringing, or obtain the necessary licenses to use the infringing equipment, materials or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of the Contract Documents.

36.05 Pursuant to Florida Statute section 725.06 and other Florida laws, etc., the indemnity provided in this Article shall have a separate consideration of \$1,000.00, receipt of which is hereby acknowledged and incorporated into the Contract Price. The parties deem this additional consideration incorporated by reference into the bid documentation and specifications.

#### **ARTICLE 37. TAXES.**

37.01 Contractor shall pay all taxes, levies, duties and assessments of every nature applicable to any Work under this Contract.

37.02 The Contract Price and any agreed changes thereto shall include all taxes imposed by law. Contractor shall make any and all payroll deductions as required by law.

37.03 Contractor shall indemnify, defend and hold Owner harmless from any claims, costs, demands and liability on account of any and all such taxes, levies, duties, assessments and deductions.

#### **ARTICLE 38. INDEMNITY AND HOLD HARMLESS.**

38.01 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner and its Commissioners, officers, employees and agents (hereinafter collectively "Related Parties") from and against any and all liability, claims, costs, damages, and causes of action (by whomever brought or alleged and regardless of the legal theories upon which the liability, claims, costs, damages or causes of action are based), losses, expenses and fees (including, but not limited to, reasonable fees of attorneys, expert witnesses and other consultants), which are or may be imposed upon, incurred by or asserted against Owner and/or the Related Parties to the extent said liability, claims, causes of action, losses, damages, costs, expenses and/or fees are caused by the Contractor's negligent, reckless or intentional wrongful acts of omission, error, misconduct, or commission and provided that such claim, damage, loss, expense or fee is

attributable to bodily injury, sickness, death, or to injury to or destruction of tangible property (other than the Work itself). Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents, and instrumentalities as herein provided.

38.02 In any and all claims against the Owner by any employee of the Contractor, or anyone for whose acts the Contractor may be directly or indirectly liable, the obligations for Contractor to indemnify Owner under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor under workers' compensation acts, disability acts, or other employee benefit acts.

38.03 If any claims are brought or actions filed against the Owner with respect to the indemnity contained herein, the Contractor agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. If Owner reasonably believes the defense the Contractor provides is inadequate and if Contractor, after written notice of the Owner's concern, fails to provide adequate defense in Owner's reasonable judgment within sixty calendar days, then the Owner may retain its own attorneys to appear and defend such claims or actions on behalf of the Owner and the Owner reserves all rights against the Contractor for the costs of same in accordance with the terms of this Agreement.

38.04 The Contractor recognizes the nature of the indemnification obligations imposed under this Contract and voluntarily makes these covenants. The obligation imposed upon the Contractor under this indemnification agreement shall survive termination of this Contract.

#### **ARTICLE 39. TERMINATION BY THE CONTRACTOR.**

39.01 If the Owner repeatedly fails to perform its material obligations to the Contractor for a period of 60 consecutive days after receiving written notice from the Contractor of Contractor's intent to terminate this Contract based upon Owner's material breaches of this Contract, the Contractor may terminate performance under this Contract by serving a second written notice to the Owner and the Architect at the conclusion of such 60 consecutive day period. In such event, the Contractor shall be entitled to recover from the Owner payment for Work executed before the termination of Contract for which payment had not previously been made, provided that Owner's non-performance is due to its own acts or omissions and not acts or omissions of the Miami-Dade County School Board.

#### **ARTICLE 40. OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE.**

40.01 The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason. If any such suspension is directed by the Owner, the Contractor shall immediately comply with same.

40.02 If Owner directs a suspension of performance under this Paragraph through no fault of the Contractor and not based on natural disasters or other force majeure events, including, but not limited to, war, terrorism, pandemic, governmental orders outside of Owner's control, or the like, the collective duration of which does not exceed seven calendar days, the Owner shall grant Contractor additional time as Contractor's sole and exclusive remedy for same. If the duration

exceeds seven calendar days, then the Owner, in addition to granting additional time, shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of the following items only:

40.03 Demobilization and remobilization, including such costs paid to Subcontractors that could not have been avoided by Contractor;

40.04 Preserving and protecting Work in place; and

40.05 Storage of materials or equipment purchased for the Project.

#### **ARTICLE 41. TERMINATION BY THE OWNER.**

41.01 The Owner may at any time terminate this Contract, for cause or convenience and for any reason whatsoever, in accordance with the following terms and conditions.

41.02 The Owner shall give written notice of such termination to Contractor 7 calendar days before it becomes effective. Upon service of such notice, Contractor shall incur no further obligations in connection with the Work and shall stop Work when such termination becomes effective. Contractor shall also terminate outstanding orders and subcontracts and settle the liabilities and claims arising out of the termination of subcontracts and orders. Owner may direct the Contractor to assign the Contractor's right, title and interest under subcontracts to the Owner or Owner's designee. Contractor shall transfer title and deliver to the Owner such completed or partially completed Work, materials, equipment, parts, fixtures, information and contract rights as the Contractor has.

41.03 When terminated for convenience, the Contractor shall be compensated for the following amounts:

(a) The portion of the Contract Price for Work performed through the date of termination for which Contractor has not yet been paid;

(b) Reasonable costs incurred in terminating the Contractor's performance;

(c) Reasonable costs of settling and paying claims arising out of the termination of Subcontractors or orders that could not have been avoided by Contractor. These costs shall not include amounts paid in accordance with other provisions hereof.

41.03.02 The total sum to be paid the Contractor under this Subparagraph shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment or lost profit.

41.04 The Owner may terminate this Contract for cause in accordance with the following terms and conditions:

41.04.01 If the Contractor persistently fails to perform the Work in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, persistently fails to timely and properly discharge its obligations for labor, equipment and

materials, disobeys applicable law, or otherwise breaches a material provision of this Contract, , then the Owner, in addition to any other rights it may have against the Contractor or others under this Contract or applicable law, shall provide Contractor with a 7-day notice with an opportunity to cure. If Contractor fails to commence to cure during the 7-day notice period and thereafter continuously and diligently prosecute the cure without compromising overall Project progress, Owner may terminate the performance of the Contractor for cause upon an additional seven calendar day written notice, assume possession of the Project site and all materials and equipment thereon and complete the Work itself. In such case, the Contractor shall not be paid further until the Work is complete. After Final Completion, if any portion of the Contract Price (as it may be modified in accordance with this Contract) remains to be paid after the cost to the Owner of completing the Work, including all costs and expenses of every nature incurred in completing and/or correcting Contractor's Work, has been deducted by the Owner, such remainder shall be paid to the Contractor. Otherwise, the Contractor shall pay the Owner any and all costs, fees, damages and expenses Owner has paid or is obligated to pay in excess of the Contract Price. This obligation for payment shall survive the termination of the Contract.

If Owner terminates this Contract for cause and a Court of competent jurisdiction subsequently determines that such termination was without cause, such termination shall thereupon be deemed a termination for convenience and the terms of this Contract relating to such termination for convenience shall apply.

#### **ARTICLE 42. CONTRACTOR'S INSURANCE.**

##### **General Insurance Requirements:**

42.01 The Contractor shall not provide any services under this Contract until the Contractor has obtained all insurance required hereunder and such insurance has been approved by the Owner. Owner may withhold payments due to Contractor in accordance with this Contract or terminate or suspend this Contract if Contractor fails to comply with any requirement of this Contract regarding insurance.

42.02 Performance and payment bonds are required on this Project, each with a penal sum equal to one hundred percent of the Contract Price and shall be provided by a Surety authorized to do business in Florida and complying with Section 255.05 of the Florida Statutes.

42.03 The Contractor shall furnish certificates of insurance and all policies, complete with all binders, endorsements and riders, to the Owner and Architect for review within ten calendar days after execution of this Contract and shall maintain the required insurance at all times during the term of this Contract.

42.04 All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and have at least a B+ rating based on the latest rating publication for Property and Casualty Insurers such as A.M. Best Company (or its equivalent) or better and shall be maintained in full force and effect throughout the greater of the term period as defined within each insurance policy or as required by this agreement. Contractor may produce any insurance under a "blanket" or "umbrella" insurance policy, provided that such policy or a certificate of such policy specify the amount(s) of the total insurance allocated to this Contract.

Coverage limits shall equal or exceed the amount(s) required by this agreement and shall not be reduced for claims made on other projects undertaken by Contractor.

42.05 All certificates of insurance shall be in the form as approved by Insurance Standards Office (ISO), unless approved by Owner's designated risk management administrator. Such certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims. No material change or cancellation of the insurance shall be effective without a thirty calendar day prior written notice to, and approval by, the Owner's designated risk management administrator.

42.06 The Contractor shall verify that all Subcontractors utilized in conjunction with all services provided under this Contract shall maintain insurance of the type, amount, and classification required by these provisions.

42.07 Neither approval by the Owner nor failure to disapprove the insurance provided by the Contractor shall relieve the Contractor of full responsibility to provide the insurance as required by this Contract.

42.08 All insurance policies required under this contract shall be endorsed to be primary to all other valid and collectable coverages maintained by the Owner, not contributing to nor in excess of any coverage that owner may carry. The Owner shall be named as an additional insured under the General Liability policy and evidence of same through a binder, endorsement or rider shall be provided to Owner before Contractor commences performance hereunder. A certificate of insurance shall be insufficient to demonstrate compliance with the requirement to make Owner an addition named insured.

42.09 The Owner reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, exclusions or endorsements throughout the life of this Contract.

42.10 **Insurance Provider and Surety:** If any insurance provider, including, but not limited to performance and payment bond Sureties, is downgraded from a B+ rating based on the latest rating publication for Property and Casualty Insurers such as A.M. Best Company (or its equivalent), or has an order of liquidation entered against it in any jurisdiction, Contractor shall furnish a replacement insurance product, insurance policy or Surety bond satisfying the requirements of this Agreement within fifteen calendar days of receipt of written notice from Owner or from the time Contractor becomes aware of the downgrade or order of liquidation, whichever is sooner.

42.11 Contractor shall have a continuing obligation to ensure that all insurance or Surety requirements are satisfied throughout the construction of the Project and until all post-completion obligations, including Punch List and warranty requirements, are completed or expire.

### **Insurance Required:**

42.12 **Commercial General Liability Insurance:** The Contractor shall maintain comprehensive general liability insurance, including products & completed operations, personal and bodily injury, and contractual liability, to cover the indemnification language set forth herein.

Minimum limits shall be \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily injury and property damage. This coverage shall also include premises, products and completed operations, coverage for independent subcontractors, advertising injury and medical expense. Coverage shall be written on an occurrence-based form. The CGL shall include coverage for XCU exposure. Owner shall be named as an additional named insured.

**42.13 Automobile Liability Insurance:** The Contractor shall maintain automobile liability insurance covering all owned, non-owned, scheduled, leased and hired vehicles in the amount of not less than \$1,000,000 one million dollars per occurrence combined single limit for bodily injury and property damage and shall not be any less restrictive than the standard ISO Business Auto Policy CA 00 01.

**42.14 Excess Liability / Umbrella Liability Insurance:** Contractor shall maintain excess Liability/umbrella liability insurance with a minimum limit of \$2,000,000 to augment the underlying limits of commercial general, and automobile liability limits.

**42.15 Workers' Compensation Insurance:** The Contractor shall maintain workers' compensation insurance in accordance with Florida statutory limits and employers liability insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease.

**42.16 Professional Liability (Errors & Omissions):** Contractor shall maintain professional liability insurance for errors and omissions covering all aspects of the Project relating to any design or construction with minimum limits of \$1,000,000 per occurrence.

**42.17 Pollution Liability:** Contractor shall maintain pollution liability insurance with minimum limits of \$3,000,000 covering third party injuries or damages , including legal and clean-up from pollution events relating to the Project.

**42.18 Builder's Risk Coverage:** During the term of this contract, the Contractor shall maintain in force, at its own expense, builders' risk insurance purchased from an insurance company or companies lawfully authorized to issue such type of insurance within the State of Florida, on an "all risks" or equivalent policy form for the completed value of the Project and acceptable to Owner of project. The minimum amount of coverage to be carried shall be equal to the completed value of the Project Coverage under the Builders Risk form terminates when the first of any of the following events occur: the policy is canceled or expires upon Owner's prior written approval and consent (otherwise Contractor shall keep it in full force and effect); the property is accepted by Owner; the insured's interest in the property ceases; or the Project is Substantially Complete. The insurance shall include interests of the City and the Contractor, as interest may appear in the Project. The Contractor shall separately insure or be wholly responsible for all materials destined to become a part of the completed structure when such materials are stored away from the site of the work and/or materials are in transit to the site. Prior to Contractor's purchase of the requisite builder's risk policy, Owner may elect to provide the necessary builder's risk coverage for the Project and waive Contractor's responsibility to purchase such coverage.

(a) All Builders Risk insurance deductibles for all hazards including but not limited to fire, flood, named windstorm, windstorm are to be paid by Owner.



(b) Insurance premiums incurred in excess of the amount for the Builders Risk line item on the Contractors bid form dated May 20, 2024 shall be reimbursed to the contractor via change order.

(c) Builders Risk Insurance Coverage shall be bound at the time of the Commencement of Construction and maintained until the date of Substantial Completion at which time the Owners Property Insurance shall be in force.

**42.19 Insurance for Warranty Period:** All insurance policies must remain in effect during performance of the Work and, other than for builders' risk insurance, for a period of one year after Final Completion.

**42.20** Contractor may produce any insurance under a "blanket" or "umbrella" insurance policy, provided that such policy or a certificate of such policy specifies the amounts of the total insurance allocated to this Contract. Coverage limits shall equal or exceed the amounts required by this Agreement and shall not be reduced for claims made on other projects undertaken by Contractor.

#### **ARTICLE 43. INTENTIONALLY OMITTED.**

#### **ARTICLE 44. INSPECTION OF CONTRACTOR RECORDS BY OWNER.**

**44.01** Contractor shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by Owner under this Agreement. All Contractor's records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by Owner's agent or its authorized representative to permit Owner to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by Contractor or any of Contractor's payees pursuant to this Agreement. Contractor's records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. Contractor's records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement.

Contractor's records shall, upon reasonable notice, be open to inspection and subject to audit and/or reproduction during normal business working hours. Such audits may be performed by an Owner's representative or an outside representative engaged by Owner. The Owner or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of five years after final payment or longer if required by law.

**44.02 Contractor Records Defined.** For the purposes of this Agreement, the term "Contractor records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering

negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

44.03 Contractor's "records", as referred to in this Contract, shall include any and all information, materials and data of every kind and character, including, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, Superintendent reports, drawings, receipts, vouchers, memoranda, and any and all other agreements, sources of information and matters that may in Owner's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records shall include (hard copy, as well as computer readable data) written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); backcharge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other Contractor records which may have a bearing on matters of interest to the Owner in connection with Contractor's dealings with the Owner (all foregoing hereinafter referred to as "records") to the extent necessary to permit evaluation and verification of: a) Contractor compliance with Contract requirements, b) compliance with Owner's business ethics policies, and c) compliance with provisions for pricing Change Orders, invoices or claims submitted by the Contractor or its payees. Contractor shall require all payees (examples of payees include Subcontractors, insurance agents, material suppliers, etc.) to comply with the provisions of this Article by including the requirements hereof in a written contract agreement between Contractor and payee. Such requirements shall include flow-down rights of audit provisions in contracts with Subcontractors, Subsubcontractors, material suppliers, etc. Contractor will cooperate fully and require Related Parties and all of Contractor's Subcontractors (including those entering into lump sum subcontracts) to cooperate fully in furnishing or making available to Owner from time to time whenever requested in an expeditious manner any and all such information, materials and data.

44.04 Owner's authorized representative or designee shall have reasonable access to the Contractor's facilities, be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Contract, and be provided adequate and appropriate work space to conduct audits in compliance with this Article.

44.05 Failure to Permit Inspection. Contractor's failure to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Article shall constitute grounds for termination of this Agreement by Owner for cause and the denial of some or all of any Contractor claims for payment from Owner.

44.06 Inspector General Audits. Contractor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

44.07 Notwithstanding any of the foregoing, this Article 44 right of Owner audit shall only apply in the event of a reasonable suspicion by the Owner of potential false claims by Contractor or any of its subcontractors, subsubcontractors or suppliers.

#### **ARTICLE 45. LAWS AND REGULATIONS.**

45.01 Contractor and its employees and representative shall at all times, comply with all applicable laws, ordinances, statutes, rules and regulations in effect while Work is performed pursuant to the Contract Documents.

45.02 If any discrepancy or inconsistency should be discovered between the Contract Documents and any law, ordinance, regulation, order or decree, Contractor shall, within fifteen calendar days of discovery of same, report the same in writing to Owner, who will issue such instructions as may be necessary.

#### **ARTICLE 46. DISPUTE RESOLUTION.**

46.01 The Owner and Contractor agree that, in the event of a dispute, the parties will attempt to resolve such dispute without litigation and that resolution through mediation procedures will be encouraged.

The existence of a dispute between the parties shall not be the basis of the Contractor failing to continue performance pursuant to the terms of the Contract Documents.

46.02 In the event of any dispute arising under, related to, or brought to enforce any of the terms of this Contract, the prevailing party shall be entitled to recover all actual attorney's fees, costs and expenses it incurred in connection with that dispute and/or the enforcement of this Agreement, from the non-prevailing party, whether incurred at the trial level, on appeal or both, and including attorney's fees and costs incurred in establishing the amount of attorney's fees and costs to be awarded after entitlement thereto has already been established, until such dispute is resolved with finality.

OWNER AND CONTRACTOR HEREBY EXPRESSLY AND KNOWINGLY WAIVE THE RIGHT TO A TRIAL BY JURY OF ANY ISSUES OTHERWISE TRIABLE AS A MATTER OF RIGHT BY A JURY.

#### **ARTICLE 47. GOVERNING LAW AND VENUE.**

47.01 This construction Contract shall be governed by the laws of the State of Florida.

47.02 In the event of litigation brought pursuant to, or to enforce the terms of, this Agreement, sole and exclusive venue, to the exclusion of all others, shall be in Miami-Dade County, Florida.

#### **ARTICLE 48. RIGHTS AND REMEDIES.**

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

#### **ARTICLE 49. SUCCESSORS, ASSIGNS AND ASSIGNMENT.**

49.01 The Owner and the Contractor each bind themselves and their partners, successors, assigns and legal representatives to the other party in respect to all covenants, agreements and obligations contained in this Contract. It is agreed that the Contractor shall not assign, transfer, convey or otherwise dispose of the Contract or Contractor's right, title and interest in and to the same or any part thereof, without previous written consent of the Owner and concurred to by the Sureties.

49.02 If requested by Owner, the Contractor agrees to assign all subcontracts required for performance of this Contract to the Owner upon the Owner or Architect's determination that Contractor has defaulted under the Contract Documents. The Contractor shall include in all subcontracts, equipment leases and purchase orders a provision requiring the Subcontractor, equipment lessor or supplier, in the event of Contractor's default under this Contract, to consent to the assignment of their subcontracts to the Owner.

#### **ARTICLE 50. NON-DISCRIMINATION.**

50.01 The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, religion, color, gender, national origin, marital status, disability or sexual orientation.

50.02 **Equal Employment Opportunity (EEO)** – Owner prohibits any policy or procedure resulting in discrimination on the basis of age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

#### **ARTICLE 51. STRICT PERFORMANCE.**

51.01 No failure of either party to exercise any power or right given under this Agreement, or to insist upon strict compliance of the other party with any of its obligations, and no custom or practice of the parties at variance with the terms of this Agreement shall waive such party's right to insist upon strict performance from the other party as to any other occurrence, issue or matter. Waivers of any right hereunder may only be accomplished in a writing signed by both parties.

#### **ARTICLE 52. CONTRACTOR RELIANCE UPON BUILDING DEPARTMENT.**

52.01 For the purposes of this Project, the North Miami Building Department is not a surrogate of Owner. All decisions by the Building Department as to whether some aspect of the Project is or is not in compliance with the Florida Building Code, Florida Fire Prevention Code and/or any other applicable codes, regulations, laws, and ordinances are independent of, and not deemed to be an act or a decision by, Owner. The Contractor agrees that it shall be its own responsibility to ensure compliance with all applicable codes, regulations, law, and ordinances pertaining to means and methods. The Contractor warrants and accepts that any and all Work that needs to be inspected to bring the Project into conformity with the plans and specifications shall be deemed the Contractor's responsibility at no additional cost to Owner.

## **ARTICLE 53. HOURS OF WORK & EMPLOYEE CONDUCT.**

53.01 Contractor may only perform work from Monday through Saturday, 7:00 a.m. to 6:00 p.m., excluding holidays, unless prior written approval is granted by Owner. Contractor shall ensure that all personnel assigned to work on this Project are dressed appropriately. Any person present on the job site on Contractor's behalf must be provided with, and display on their clothing, proper identification at all times. All Contractor's employees and Subcontractors shall be considered to be working under Contractor's authority and supervision at all times and shall not be considered an employee nor agent of Owner. Contractor shall be solely responsible for the conduct and actions of all persons working on its behalf on the Project and Owner may require Contractor to remove any person Owner deems careless, incompetent, insubordinate or otherwise objectionable and whose presence on Owner's property is not in Owner's best interest.

## **ARTICLE 54. ENVIRONMENTAL CONTAMINATION NOTICE.**

54.01 The Project site contains contaminated soils. Before any construction activities, Contractor is responsible for understanding the additional provisions that must be taken to comply with all applicable rules and laws. Work shall follow all applicable safety requirements (e.g., OSHA, etc.) and notification shall be provided to the appropriate agencies. If contaminated soils are excavated during construction, they require proper handling and disposal in accordance with the local, state and federal regulations. All Work must be conducted in accordance with the contaminated soil management plan, dust control plan, air monitoring plan and health and safety plan developed for the site and having received final approval by Miami-Dade County Department of Regulatory and Economic Resources (DERM). All personnel present on the site are responsible for understanding and complying with these requirements. The costs of complying with the provisions of this Paragraph shall be included in the Contract Price.

## **ARTICLE 55. WAIVER OF CONSEQUENTIAL DAMAGES.**

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

.1 damages incurred by Owner for rental expenses, for loss of use, income, profit, financing, business and reputation, and for loss of management of employee productivity or of the services of such persons; and

.2 damages incurred by Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with applicable provisions of this Contract. Nothing contained in this section shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**ARTICLE 56. COMMUNITY BENEFITS PLAN.** CONTRACTOR SHALL COMPLY WITH THE COMMUNITY BENEFITS PLAN ATTACHED HERETO AS EXHIBIT 5.

## **EXHIBIT 1**

Cagni Park North Project, Phase 1  
Enumeration of Contract Documents  
Exhibit 1

<b>OWNER:</b> City of North Miami 776 NE 125th Street North Miami, Florida, 33161	<b>GENERAL CONTRACTOR:</b> KVC CONSTRUCTORS, INC. 9499 NE 2nd Avenue, Suite 205 Miami Shores, Florida 33138	<b>SURVEY:</b> GIBBS LAND SURVEYORS 2131 Hollywood Blvd, suite 204 Hollywood, FL 33020
<b>STRUCTURAL:</b> MU Engineers 3440 NE 12th Ave Oakland Park, FL 33304	<b>ARCHITECT, INTERIOR DESIGN, LANDSCAPE ARCHITECT &amp; CIVIL ENGINEER:</b> BERMELLO AJAMIL & PARTNERS, INC. 2601 South Bayshore Drive, 10th Floor Miami, Florida 33133	<b>MEP ENGINEER:</b> DELTA CONSULTING ENGINEERS, INC 707 NE 3rd Ave. Suite 200 Ft. Lauderdale, FL, 33304
<b>AQUATIC ENGINEER:</b> AQUATIC DESIGN GROUP 2226 Faraday Ave Carlsbad, CA 92008	<b>IRRIGATION</b> KEN DIDONATO 2210 Hollywood Blvd Hollywood, FL 33020	

Section	Section Title	Issue Date
<b>Bid Documents</b>		
	IFB No 26-23-24	
	IFB No 26-23-24 - Addendum No 1	02/02/24
	IFB No 26-23-24 - Addendum No 2	02/07/24
	IFB No 26-23-24 - Addendum No 3	03/15/24
	IFB No 26-23-24 - Addendum No 4	04/03/24
	IFB No 26-23-24 - Addendum No 5	04/19/24
<b>List of Specifications</b>		
<b>DIVISION 01 – GENERAL REQUIREMENTS</b>		
01 10 00	Summary	06/06/23
01 25 00	Substitution Procedures	06/06/23
01 26 00	Contract Modification Procedures	06/06/23
01 26 13	Request for Interpretation	06/06/23
01 29 00	Payment Procedures	06/06/23
01 31 00	Project Management and Coordination	06/06/23
01 32 00	Construction Progress Documentation	06/06/23
01 32 33	Photographic Documentation	06/06/23
01 33 00	Submittal Procedures	06/06/23
01 40 00	Quality Requirements	06/06/23
01 42 00	References	06/06/23
01 50 00	Temporary Facilities and Controls	06/06/23
01 56 39	Temporary Tree and Plant Protection	06/06/23
01 57 23	Temporary Storm and Water Pollution Control	06/06/23
01 58 13	Temporary Project Signage	06/06/23
01 60 00	Product Requirements	06/06/23
01 73 00	Execution	06/06/23
01 74 19	Construction Waste Management and Disposal	06/06/23
01 77 00	Closeout Procedures	06/06/23
01 78 23	Operations and Maintenance Data	06/06/23
01 78 39	Project Records Document	06/06/23
01 79 00	Demonstration and Training	06/06/23
01 81 13.14	Sustainable Design Requirement - FGBC	06/06/23
01 91 13A	General Commissioning Requirements	06/06/23
01 91 13B	Fundamental Commissioning Requirements	06/06/23
01 91 13C	Plumbing Systems Commissioning	06/06/23
01 91 13D	Mechanical Systems Commissioning	06/06/23
01 91 13E	Electrical Systems Commissioning	06/06/23
<b>DIVISION 02 – EXISTING CONDITIONS</b>		
02 41 19	Selective Demolition	06/06/23
<b>DIVISION 03 – CONCRETE</b>		
03 05 16	Underslab Vapor Barrier	06/06/23
03 10 00	Concrete Forming and Accessories	06/06/23
03 11 01	Site Concrete Formwork	06/06/23
03 15 21	Termite Barrier	06/06/23
03 20 00	Concrete Reinforcing	06/06/23
03 30 00	Cast-In-Place Concrete	06/06/23
03 35 43	Polished Concrete Finishing	06/06/23



Cagni Park North Project, Phase 1  
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Section	Section Title	Issue Date
03 41 13	Precast Concrete Hollow Core Planks	06/06/23
03 52 16	Lightweight Insulating Concrete	06/06/23
<b>DIVISION 04 – MASONRY</b>		
04 20 00	Unit Masonry	06/06/23
04 22 00	Concrete Unit Masonry	06/06/23
04 29 00	Engineered Unit Masonry	06/06/23
<b>DIVISION 05 – METALS</b>		
05 12 00	Structural Steel Framing	6/6/2023
05 12 13	Architecturally Exposed Structural Steel Framing	6/6/2023
05 50 00	Metal Fabrications	6/6/2023
05 52 13	Pipe and Tube Railings	6/6/2023
<b>DIVISION 06 – WOOD, PLASTICS AND COMPOSITES</b>		
06 10 00	Rough Carpentry	06/06/23
06 41 16	Plastic-Laminate-Clad Architectural Cabinets	06/06/23
06 64 00	Plastic Paneling	06/06/23
<b>DIVISION 07- THERMAL AND MOISTURE PROTECTION</b>		
07 13 24	Pre-Applied Integrally Bonded Sheet Waterproofing	06/06/23
07 14 16	Cold Fluid-Applied Waterproofing	06/06/23
07 18 00	Traffic Coatings	06/06/23
07 19 00	Water Repellents	06/06/23
07 21 00	Thermal Insulation	06/06/23
07 21 19	Foamed-In-Place Insulation	06/06/23
07 25 00	Weather Barriers	06/06/23
07 54 23	Thermoplastic-Polyolefin (TPO) Roofing	06/06/23
07 62 00	Sheet Metal Flashing and Trim	06/06/23
07 71 00	Roof Specialties	06/06/23
07 71 29	Manufactured Roof Expansion Joints	06/06/23
07 72 00	Roof Accessories	06/06/23
07 81 00	Applied Fireproofing	06/06/23
07 81 23	Intumescent Fireproofing	06/06/23
07 84 13	Penetration Firestopping	06/06/23
07 84 43	Joint Firestopping	06/06/23
07 92 00	Joint Sealants	06/06/23
07 92 19	Acoustical Joint Sealants	06/06/23
<b>DIVISION 08 – OPENINGS</b>		
08 11 13	Hollow Metal Doors and Frames	06/06/23
08 14 16	Flush Wood Doors	06/06/23
08 31 13	Access Doors and Frames	06/06/23
08 33 13	Coiling Counter Doors	06/06/23
08 42 13	Aluminum-Framed Entrances	06/06/23
08 44 13	Glazed Aluminum Curtain Walls and Window Wall	06/06/23
08 63 00	Metal Framed Skylights	06/06/23
08 71 00	Door Hardware	Issued 04/03/2024 with addendum 4
08 80 00	Glazing	06/06/23
08 91 19	Fixed Louvers	06/06/23
<b>DIVISION 09 – FINISHES</b>		
09 05 61.13	Moisture Vapor Emission Control	06/06/23
09 22 16	Non-Structural Metal Framing	06/06/23
09 24 00	Portland Cement Plastering	06/06/23
09 29 00	Gypsum Board	06/06/23
09 30 13	Ceramic Tiling	06/06/23
09 51 13	Acoustical Panel Ceilings	06/06/23
09 65 13	Resilient Base and Accessories	06/06/23
09 65 19	Resilient Tile Flooring	06/06/23
09 65 66	Resilient Athletic Flooring	06/06/23
09 67 23	Resinous Flooring	06/06/23
09 91 13	Exterior Painting	06/06/23
09 91 23	Interior Painting	06/06/23
09 96 00	High Performance Coatings	06/06/23
<b>DIVISION 10 – SPECIALTIES</b>		
10 14 23	Room-Identification Panel Signage	06/06/23
10 21 16.17	Phenolic Core Core Shower & Dressing Compart.	06/06/23
10 22 39	Folding Panel Partitions	06/06/23

Cagni Park North Project, Phase 1  
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Section	Section Title	Issue Date
10 26 00	Wall and Corner Protection	06/06/23
10 28 00	Toilet, Bath, and Laundry Accessories	06/06/23
10 44 13	Fire Protection Cabinets	06/06/23
10 44 16	Fire Extinguishers	06/06/23
10 73 00	Specialties Manufacturers of Protective Covers	06/06/23
10 73 01	Pre-Engineered Fabric Shade Products	06/06/23
<b>DIVISION 11 – EQUIPMENT</b>		
11 68 00	Playfield Equipment and Structures	06/06/23
<b>DIVISION 12 – FURNISHINGS</b>		
12 24 13	Roller Window Shades	06/06/23
12 36 61.16	Solid Surfacing Countertops	06/06/23
<b>DIVISION 13 – SPECIAL CONSTRUCTION</b>		
13 11 00	Swimming Pool General Requirements	8/9/2022
13 11 01	Swimming Pool Excavation	Issued 04/19/2024 with addendum 5
13 11 02	Swimming Pool Concrete	06/06/23
13 11 03	Swimming Pool Shotcrete	06/06/23
13 11 04	Swimming Pool Ceramic Tile	06/06/23
13 11 05	Swimming Pool Plaster	06/06/23
13 11 06	Swimming Pool Equipment	06/06/23
13 11 07	Swimming Pool Mechanical	06/06/23
13 11 08	Swimming Pool Electrical	06/06/23
13 11 65	Fiberglass Waterslide	Issued 04/19/2024 with addendum 5
<b>DIVISION 21 – FIRE PROTECTION</b>		
21 05 00	Common Work Results for Fire Suppression	06/06/23
21 13 13	Wet-Pipe Sprinkler Systems	06/06/23
<b>DIVISION 22 – PLUMBING</b>		
22 05 00	Common Work Results for Plumbing	06/06/23
22 05 16	Expansion Fittings and Loops for Plumbing Piping	06/06/23
22 05 29	Hangers and Supports for Plumbing Piping and Equip.	06/06/23
22 05 48	Vibration Controls for Plumbing, Piping and Equipment	06/06/23
22 05 53	Identification for Plumbing Piping and Equipment	06/06/23
22 07 00	Plumbing Insulation	06/06/23
22 10 00	Plumbing Piping and Pumps	06/06/23
22 33 00	Electric Domestic Water Heaters	06/06/23
22 40 00	Plumbing Fixtures	06/06/23
<b>DIVISION 23 – MECHANICAL</b>		
23 05 00	Common Work Results for HVAC	06/06/23
23 05 29	Hangers and Supports for HVAC Piping and Equipment	06/06/23
23 05 48	Vibration Controls for HVAC Piping and Equipment	06/06/23
23 05 53	Identification for HVAC Piping and Equipment	06/06/23
23 05 93	Testing, Adjusting, and Balancing for HVAC	06/06/23
23 07 00	HVAC Insulation	06/06/23
23 23 00	Refrigerant Piping	06/06/23
23 30 00	HVAC Air Distribution	06/06/23
23 81 26	Split System Air Conditioners	06/06/23
<b>DIVISION 26 – ELECTRICAL</b>		
26 05 00	Common Work Results for Electrical	06/06/23
26 05 19	Low Voltage Power Conductors and Cables	06/06/23
26 05 26	Grounding and Bonding for Electrical Systems	06/06/23
26 05 29	Hangers and Supports for Electrical Systems	06/06/23
26 05 33	Raceway and Boxes for Electrical Systems	06/06/23
26 05 34	Floor Boxes for Electrical Systems	06/06/23
26 05 73	Overcurrent Protective Device Coordination Study	06/06/23
26 09 23	Lighting Control Devices	06/06/23
26 09 43	Network Lighting Controls	06/06/23
26 20 00	Low-Voltage Switch Gear	06/06/23
26 22 00	Low-Voltage Transformers	06/06/23
26 22 13	Low-Voltage Distribution Transformers	06/06/23
26 24 13	Switchboards	06/06/23
26 24 16	Panelboards	06/06/23
26 27 26	Wiring Devices	06/06/23
26 28 13	Fuses	06/06/23
26 28 26	Enclosed Transfer Switches	06/06/23
26 32 13	Engine Generators	06/06/23

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Section	Section Title	Issue Date
26 41 00	Facility Lighting Protection	06/06/23
26 50 00	Lighting	06/06/23
26 52 00	Emergency Lighting	06/06/23
26 55 68	Athletic Field Lighting	Issued 04/03/2024 with addendum 4
26 56 00	Exterior Lightings	06/06/23
<b>DIVISION 27 – COMMUNICATIONS</b>		
27 00 00	Communications	06/06/23
27 05 26	Grounding and Bonding for Communications systems	06/06/23
27 11 16	Communications Cabinets	06/06/23
27 32 14	Public Address System	06/06/23
<b>DIVISION 28 – ELECTRONIC SAFETY AND SECURITY</b>		
28 05 28.29	Hangers and Supports for Electronic Safety and Security	06/06/23
28 05 28.33	Conduits and Backboxes for Electronic Safety and Security	06/06/23
28 05 28.36	Cable Trays for Electronic Safety and Security	06/06/23
28 05 53	Identification for Electronic Safety and Security	06/06/23
28 13 00	Access Control	06/06/23
28 16 00	Intrusion Detection	06/06/23
28 23 00	Video Surveillance	06/06/23
28 31 00	Fire Detection and Alarm	06/06/23
<b>DIVISION 31 – EARTHWORK</b>		
31 10 00	Site Clearing	06/06/23
31 22 00	Grading	06/06/23
31 23 13	Excavation and Fill	06/06/23
31 23 16	Excavation and Fill for Paving	06/06/23
31 23 19	Dewatering	06/06/23
31 23 23	Excavation and Fill for Utilities	06/06/23
31 23 26	Base Course	06/06/23
31 31 16	Termite Control	06/06/23
31 50 00	Excavation Support & Protection	06/06/23
<b>DIVISION 32 – EXTERIOR IMPROVEMENTS</b>		
32 11 16	Stabilized Subgrade	06/06/23
32 12 18	Type SP Asphaltic Concrete	06/06/23
32 13 13	Concrete Paving	06/06/23
32 13 73	Concrete Paving Joint Sealants	06/06/23
32 17 13	Parking Bumpers	06/06/23
32 17 23	Pavement Markings	06/06/23
32 17 23.28	Synthetic Turf system	06/06/23
32 17 26	Tactile Warning Surfacing	06/06/23
32 18 16.13	Playground Resilient Surfacing	06/06/23
32 31 13	Chain-link Fences and Gates	06/06/23
32 31 19	Decorative Metal Fences and Gates	06/06/23
32 33 00	Site Furnishing	06/06/23
32 84 00	Irrigation System	06/06/23
32 91 13	Soil Preparation	06/06/23
32 92 00	Turf and Grasses	06/06/23
32 93 00	Plants	06/06/23
<b>DIVISION 33 – UTILITIES</b>		
33 05 16.13	Precast Concrete Utility Structures	06/06/23
33 10 00	Water Distribution System	06/06/23
33 30 00	Sanitary Sewer Utilities	06/06/23
33 41 00	Storm Drainage Piping	06/06/23
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<b>OWNER:</b> City of North Miami 776 NE 125st Street North Miami, Florida, 33161		<b>GENERAL CONTRACTOR:</b> KVC CONSTRUCTORS, INC. 9499 NE 2nd Avenue, Suite 205 Miami Shores, Florida 33138		<b>SURVEY:</b> GIBBS LAND SURVEYORS 2131 Hollywood Blvd, suite 204 Hollywood, FL 33020		<b>AQUATIC ENGINEER:</b> AQUATIC DESIGN GROUP 2226 Faraday Ave Carlsbad, CA 92008	
<b>STRUCTURAL:</b> MU Engineers 3440 NE 12th Ave Oakland Park, FL 33304		<b>ARCHITECT, INTERIOR DESIGN, LANDSCAPE ARCHITECT &amp; CIVIL ENGINEER:</b> BERMELLO AJAMIL & PARTNERS, INC. 2601 South Bayshore Drive, 10th Floor Miami, Florida 33133		<b>MEP ENGINEER:</b> DELTA CONSULTING ENGINEERS, INC 707 NE 3rd Ave. Suite 200 Ft. Lauderdale, FL, 33304		<b>IRRIGATION</b> KEN DIDONATO 2210 Hollywood Blvd Hollywood, FL 33020	
List of Drawings							
Sheet ID	Sheet Title	Issue Date	Rev. No.	Revision Description	Rev. Date		
COVER SHEET							
SP-01	SITE PLAN	06/06/23	2	Bldg dept comments	01/12/24		
PP-01	PHASE PLAN	06/06/23	2	Bldg dept comments	01/12/24		
TREE DISPOSITION							
LT-01	TREE DISPOSITION PLAN	06/06/23	3	revision	04/12/24		
LT-02	TREE DISPOSITION PAN, NOTES & TREE DISPOSITION TABLE	06/06/23	3	revision	04/12/24		
LT-03	TREE/PALM PROTECTION AND RELICATION SPECIFICATIONS	06/06/23	0				
CIVIL							
C-1	GENERAL NOTE	06/06/23	0				
C-2	DEMOLITION PLAN	06/06/23	3	revision	04/12/24		
C-3	EROSION CONTROL PLAN	06/06/23	0				
C-4	EROSION CONTROL NOTES AND DETAILS	06/06/23	0				
C-5	SITE PLAN DIMENSION	06/06/23	3	revision	04/12/24		
C-5A	GEOMETRIC LAYOUT	06/06/23	0				
C-6	PAVING, GRADING AND DRAINAGE PLAN	06/06/23	3	revision	04/12/24		
C-6A	DRAINAGE STRUCTURE SCHEDULE	06/06/23	3	revision	04/12/24		
C-6B	MULTIPURPOSE FIELD DRAINAGE PLAN	06/06/23	0				
C-7	UTILITY PLAN	06/06/23	3	revision	04/12/24		
C-8	DRAINAGE DETAIL	06/06/23	0				
C-9	UTILITY DETAIL	06/06/23	0				
C-10	GENERAL DETAILS	06/06/23	0				
C-10A	GENERAL DETAILS	06/06/23	3	revision	04/12/24		
C-11	SEWER LINE PROFILE	06/06/23	3	revision	04/12/24		
C-12	WATER LINE PROFILE	06/06/23	3	revision	04/12/24		
C-13	ACCESS PLAN	06/06/23	0				
C-14	SECTIONS	06/06/23	3	revision	04/12/24		
C-15	SECTIONS	06/06/23	0				
AQUATIC							
AP-1	ACTIVITY POOL LAYOUT	07/21/23	3	revision	04/12/24		
AP-2	ACTIVITY POOL PIPING PLAN	06/06/23	0				
AP-3	ACTIVITY POOL LIGHTING PLAN	06/06/23	0				
AP-3.1	ACTIVITY POOL TIMING PLAN	06/06/23	0				
AP-4	ACTIVITY POOL SECTIONS	06/06/23	0				
AP-5	DETAILS	06/06/23	0				
AP-6	DETAILS	06/06/23	0				
AP-7	DETAILS	06/06/23	0				
AP-8	DETAILS	06/06/23	0				
AP-9	DETAILS	06/06/23	0				
AP-10	DETAILS	06/06/23	0				
AP-11	DETAILS	06/06/23	0				
AP-12	DETAILS	06/06/23	0				
AP-13	DETAILS	06/06/23	0				
AP-14	DETAILS	06/06/23	0				
AP-15	DETAILS	06/06/23	0				
MR-1	MECHANICAL ROOM LAYOUT PLAN	07/21/23	3	revision	04/12/24		
MR-2	DETAILS	06/06/23	0				
MR-3	DETAILS	07/21/23	3	revision	04/12/24		
MR-4	DETAILS	06/06/23	0				
MR-5	DETAILS	06/06/23	0				
MR-6	DETAILS	07/21/23	3	revision	04/12/24		
MR-7	DETAILS	07/21/23	3	revision	04/12/24		
MR-8	DETAILS	06/06/23	0				
MR-9	DETAILS	06/06/23	0				
MR-10	DETAILS	06/06/23	0				
SL-1	SLIDE LAYOUT & SECTIONS	07/21/23	2	bldg dept comment	10/06/23		
SL-2	SLIDE DETAILS	06/06/23	0				
ARCHITECTURE							
G000	ARCHITECTURE GENERAL NOTES	06/06/23	2	bldg dept comment	01/12/24		
A001	ZONING OVERVIEW	06/06/23	2	bldg dept comment	01/12/24		
A002	ZONING PLAN	06/06/23	2	bldg dept comment	01/12/24		
A003	ZONING TABLE	06/06/23	2	bldg dept comment	01/12/24		
AS001	SITE PLAN	06/06/23	2	bldg dept comment	01/12/24		
AS003	SITE DATA	06/06/23	2	bldg dept comment	01/12/24		
LS-00	LIFE SAFETY OVERALL SITE PLAN	06/06/23	3	revision	04/12/24		
LS-01	LIFE SAFETY FLOOR PLAN PHASE I	06/06/23	3	revision	04/12/24		
LS-02	LIFE SAFETY FLOOR PLAN PHASE II	06/06/23	2	bldg dept comment	01/12/24		
LS-03	LIFE SAFETY OVERALL CALCULATIONS	06/06/23	3	revision	04/12/24		
A100	GROUND FLOOR PLAN - OVERALL	06/06/23	2	bldg dept comment	01/12/24		
A100.1	GROUND FLOOR PLAN - PHASE I	06/06/23	2	bldg dept comment	01/12/24		
A100.2	GROUND FLOOR PLAN - PHASE II	06/06/23	2	bldg dept comment	01/12/24		
A101	ENLARGED PUMP PIT BUILDING - PHASE I	06/06/23	3	revision	04/12/24		

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A111.1	ROOF PLAN - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A111.2	ROOF PLAN - PHASE II	06/06/23	2	bldg dept comment	01/12/24
A111.3	ROOF PLAN - CANOPY PHASE II	06/06/23	2	bldg dept comment	01/12/24
A120.1	FLOOR FINISH PLAN - PHASE I	06/06/23	3	revision	02/16/24
A120.2	FLOOR FINISH PLAN - PHASE II	06/06/23	2	bldg dept comment	01/12/24
A150.1	GROUND FLOOR RCP - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A150.2	GROUND FLOOR RCP - PHASE II	06/06/23	2	bldg dept comment	01/12/24
A200	ELEVATIONS - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A201	ELEVATIONS - PHASE I	06/06/23	3	revision	04/12/24
A202	ELEVATIONS PHASE II	06/06/23	2	bldg dept comment	01/12/24
A203	ELEVATIONS PHASE II	06/06/23	2	bldg dept comment	01/12/24
A300	BUILDING SECTIONS - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A301	BUILDING SECTIONS - PHASE II	06/06/23	2	bldg dept comment	01/12/24
A350	WALL SECTIONS	06/06/23	2	bldg dept comment	01/12/24
A352	WALL TYPES - MASONRY	06/06/23	3	revision	02/16/24
A353	PARTITION TYPES	06/06/23	2	bldg dept comment	01/12/24
A400	ENLARGED RESTROOM PLANS - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A401	ENLARGED RESTROOM PLANS - PHASE I	06/06/23	2	bldg dept comment	01/12/24
A402	ENLARGED RESTROOM PLANS - PHASE II	06/06/23	2	bldg dept comment	01/12/24
A403	ENLARGED LFG BREAK ROOM PHASE I	06/06/23	2	bldg dept comment	01/12/24
A404	ENLARGED WARMING KITCHEN PHASE II	06/06/23	2	bldg dept comment	01/12/24
A451	INTERIOR ELEVATIONS PHASE II	06/06/23	2	bldg dept comment	01/12/24
A500	INTERIOR DETAILS	06/06/23	2	bldg dept comment	01/12/24
A501	INTERIOR DETAILS	06/06/23	2	bldg dept comment	01/12/24
A502	INTERIOR DETAILS	06/06/23	3	revision	02/16/24
A503	INTERIOR DETAILS	06/06/23	2	bldg dept comment	01/12/24
A504	MILLWORK DETAILS	06/06/23	2	bldg dept comment	01/12/24
A600	DOOR SCHEDULE	06/06/23	3	revision	04/12/24
A601	WINDOW SCHEDULE & STOREFRONT DETAILS	06/06/23	2	bldg dept comment	01/12/24
A602	ELEVATIONS - CURTAINWALL	06/06/23	2	bldg dept comment	01/12/24
A603	DETAILS - CURTAINWALL	06/06/23	2	bldg dept comment	01/12/24
A604	SCHEDULES	06/06/23	3	revision	04/12/24
A651	DOOR DETAILS	06/06/23	2	bldg dept comment	01/12/24
A652	DOOR DETAILS	06/06/23	2	bldg dept comment	01/12/24
A653	WINDOW DETAILS	06/06/23	2	bldg dept comment	01/12/24
A654	ROOF DETAILS	06/06/23	2	bldg dept comment	01/12/24
A655	ROOF DETAILS	06/06/23	2	bldg dept comment	01/12/24
A656	ROOF DETAILS	06/06/23	2	bldg dept comment	01/12/24
A657	RCP DETAILS	06/06/23	2	bldg dept comment	01/12/24
A659	DUMPSTER AND FENCE DETAILS	06/06/23	2	bldg dept comment	01/12/24
A660	SIGNAGE DETAILS	06/06/23	2	bldg dept comment	01/12/24
A661	ADA DETAILS	06/06/23	2	bldg dept comment	01/12/24
<b>ELECTRICAL</b>					
E001	NOTES, INDEX AND SYMBOL LEGEND	06/06/23	0		
E100	ELECTRICAL SITE PLAN	06/06/23	3	revision	04/12/24
E100.1	PHOTOMETRIC SITE PLAN	06/06/23	3	revision	04/12/24
E100.2	SITE SPORTS LIGHTING PHOTOMETRICS PLAN	06/06/23	0		
E101	GROUND FLOOR POWER PLAN - OVERALL	06/06/23	3	revision	09/30/23
E101.1	GROUND FLOOR POWER PLAN - PHASE I	06/06/23	3	revision	04/12/24
E101.2	GROUND FLOOR POWER PLAN - PHASE II	06/06/23	3	revision	09/30/23
E110	GROUND FLOOR LIGHTING PLAN - OVERALL	06/06/23	0		
E110.1	GROUND FLOOR LIGHTING PLAN - PHASE I	06/06/23	3	revision	04/12/24
E110.2	GROUND FLOOR LIGHTING PLAN - PHASE II	06/06/23	3	revision	09/30/23
E200	PANEL SCHEDULES	06/06/23	3	revision	04/12/24
E201	POWER RISER DIAGRAM	06/06/23	3	revision	09/30/23
E202	ELECTRICAL DETAILS	06/06/23	3	revision	09/30/23
E203	POOL ELECTRICAL RISER AND SCHEDULES	06/06/23	0		
LV000	LOW VOLTAGE GENERAL NOTES	06/06/23	0		
LV001	LOW VOLTAGE SITE PLAN	06/06/23	0		
LV100	LOW VOLTAGE GROUND FLOOR PLAN	06/06/23	0		
LV200	LOW VOLTAGE DETAILS	06/06/23	0		
<b>MECHANICAL</b>					
M100	NOTES, INDEX AND SYMBOL LEGEND	06/06/23	0		
M002	MECHANICAL SCHEDULES	06/06/23	3	revision	04/12/24
M101	GROUND FLOOR MECHANICAL PLAN - OVERALL	06/06/23	0		
M101.1	GROUND FLOOR MECHANICAL PLAN - PHASE I	06/06/23	3	revision	04/12/24
M101.2	GROUND FLOOR MECHANICAL PLAN - PHASE II	06/06/23	0		
M200	MECHANICAL DETAILS	06/06/23	0		
M201	MECHANICAL DETAILS I	06/06/23	0		
<b>PLUMBING</b>					
P001	NOTES, INDEX AND SYMBOL LEGEND	06/06/23	3	revision	04/12/24
P100	PLUMBING SITE PLAN	06/06/23	3	revision	04/12/24
P101.1	GROUND FLOOR DOMESTIC WATER PLAN PHASE I	06/06/23	0		
P101.2	GROUND FLOOR DOMESTIC WATER PLAN PHASE II	06/06/23	0		
P102.1	GROUND FLOOR SANITARY PLAN - PHASE I	06/06/23	0		
P102.2	GROUND FLOOR SANITARY PLAN - PHASE II	06/06/23	1	bldg dept comment	08/18/23
P103.1	POOL SUMP PIT BUILDING PLUMBING PLAN - PHASE I	06/06/23	3	revision	04/12/24
P103.2	OVERALL POOL DECK DOMESTIC WATER PLAN - PHASE I	06/06/23	3	revision	04/12/24
P103.3	POOL SUMP PIT BUILDING GAS FLOOR PLAN - PHASE I	06/06/23	3	revision	04/12/24
P200	DOMESTIC WATER PIPING ISOMETRIC	06/06/23	0		
P201	SANITARY / CONDENSATE PIPING ISOMETRIC	06/06/23	3	revision	04/12/24
P202	POOL SUMP PIT BLDG - PLUMBING PIPING ISOMETRIC	06/06/23	3	revision	04/12/24



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FP101	GROUND FLOOR FIRE PROTECTION PLAN - OVERALL	06/06/23	2		
FP101.1	GROUND FLOOR FIRE PROTECTION PLAN - PHASE I	06/06/23	2	bldg dept comment	01/12/24
FP102.2	GROUND FLOOR FIRE PROTECTION PLAN - PHASE II	06/06/23	2	bldg dept comment	01/12/24
<b>FIRE ALARM</b>					
FA101.1	GROUND FLOOR FIRE ALARM PLAN - PHASE I	06/06/23	2	bldg dept comment	01/12/24
FA101.2	GROUND FLOOR FIRE ALARM PLAN - PHASE II	06/06/23	2	bldg dept comment	01/12/24
<b>STRUCTURAL</b>					
S-0.00	STRUCTURAL NOTES	06/06/23	0		
S-0.01	CONCRETE TABLE, SYMBOL LEGEND & INDEX OF DRAWINGS	07/21/23	3	revision	04/12/24
S-1.00	TYPICAL DETAIL	07/21/23	3	revision	04/12/24
S-2.00	FOUNDATION PLAN - OVERALL	06/06/23	0		
S-2.01	FOUNDATION PLAN - PHASE I	06/06/23	0		
S-2.02	FOUNDATION PLAN - PHASE II	06/06/23	0		
S-2.03	GROUND FLOOR PLAN - OVERALL	06/06/23	0		
S-2.04	GROUND FLOOR PLAN - PHASE I	06/06/23	0		
S-2.05	GROUND FLOOR PLAN - PHASE II	06/06/23	0		
S-2.06	LOWER ROOF FRAMING PLAN - OVERALL	06/06/23	0		
S-2.07	LOWER ROOF FRAMING PLAN - PHASE I	06/06/23	0		
S-2.08	LOWER ROOF FRAMING PLAN - PHASE II	06/06/23	0		
S-2.09	UPPER ROOF FRAMING PLAN - OVERALL	06/06/23	0		
S-2.10	UPPER ROOF FRAMING PLAN - PHASE I	06/06/23	0		
S-2.11	UPPER ROOF FRAMING PLAN - PHASE II	06/06/23	0		
S-2.12	POOL STORAGE BUILDING	06/06/23	0		
S-2.13	DUMPSTER ENCLOSURE	06/06/23	0		
S-2.14	POOL EQUIPMENT BUILDING AND AREA PLAN AND DETAILS	07/21/23	3	revision	04/12/24
S-3.00	SECTIONS AND DETAILS	06/06/23	0		
S-3.01	SECTIONS AND DETAILS	06/06/23	0		
S-4.00	SCHEDULES AND COMPONENTS AND CLADDING DIAGRAM	07/21/23	3	revision	04/12/24
S-4.01	FOUNDATION AND COLUMN SCHEDULES	07/21/23	3	revision	04/12/24
S-4.02	WALL AND BEAM SCHEDULES	06/06/23	0		
S-5.00	3D VIEWS	07/21/23	3	revision	04/12/24
<b>HARDSCAPE PAVING &amp; FINISHES</b>					
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LF-02	HARDSCAPE PAVING AND FINISH PLAN	06/06/23	0		
LF-03	HARDSCAPE PAVING AND FINISH PLAN	06/06/23	0		
LF-04	HARDSCAPE PAVING AND FINISH PLAN	06/06/23	3	revision	02/16/24
LF-05	HARDSCAPE PAVING AND FINISHES LEGEND	06/06/23	0		
LF-06	HARDSCAPE MATERIALS & PAVING DETAILS	06/06/23	0		
LF-07	MULTI-PURPOSE FIELD STRIPING BLOW-UP PLAN	06/06/23	0		
LF-08	SPLASH PAD BLOW-UP PLAN AND DETAIL	06/06/23	0		
<b>HARDSCAPE PAVING &amp; FINISHES</b>					
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LM-02	HARDSCAPE FURNITURE AND MATERIALS PLAN	06/06/23	2	bldg dept comment	01/12/24
LM-03	HARDSCAPE FURNITURE AND MATERIALS PLAN	06/06/23	0		
LM-04	HARDSCAPE FURNITURE AND MATERIALS PLAN	06/06/23	3	revision	04/12/24
LM-05	HARDSCAPE FURNITURE AND MATERIALS LEGEND	06/06/23	2	bldg dept comment	01/12/24
LM-06	HARDSCAPE FURNITURE AND MATERIALS LEGEND	06/06/23	3	revision	02/16/24
LM-07	HARDSCAPE FURNITURE AND MATERIALS PLAN DETAILS	06/06/23	2	bldg dept comment	01/12/24
LM-08	HARDSCAPE FURNITURE AND MATERIALS PLAN DETAILS	06/06/23	2	bldg dept comment	01/12/24
LM-09	HARDSCAPE FURNITURE AND MATERIALS PLAN DETAILS	06/06/23	3	revision	02/16/24
LM-10	SCOREBOARD CONTROLLER DETAILS	06/06/23	0		
LM-10.1	ALUMINUM BLEACHERS DETAILS	06/06/23	2	bldg dept comment	01/12/24
LM-11	LIGHTING CUT SHEETS	06/06/23	0		
LM-12	LIGHTING CUT SHEETS	06/06/23	0		
LM-13	LIGHTING CUT SHEETS	06/06/23	0		
LM-14	LIGHTING CUT SHEETS	06/06/23	0		
LM-15	LIGHTING CUT SHEETS	06/06/23	0		
LM-16	LIGHTING CUT SHEETS	06/06/23	0		
LM-17	LIGHTING CUT SHEETS	06/06/23	0		
LM-18	LIGHTING CUT SHEETS	06/06/23	0		
LM-19	LIGHTING CUT SHEETS	06/06/23	0		
LM-20	LIGHTING CUT SHEETS	06/06/23	0		
LM-21	SPORT LIGHTING CUT SHEETS	06/06/23	0		
LM-22	SPORT LIGHTING CUT SHEETS	06/06/23	0		
<b>LANDSCAPE</b>					
LL-01	LANDSCAPE PLAN	06/06/23	0		
LL-02	LANDSCAPE PLAN	06/06/23	0		
LL-03	LANDSCAPE PLAN	06/06/23	3	revision	04/12/24
LL-04	LANDSCAPE PLAN	06/06/23	3	revision	04/12/24
LL-05	LANDSCAPE PLAN PHASE 2	06/06/23	0		
LL-06	LANDSCAPE NOTES AND DETAILS	06/06/23	0		
LL-07	PLANT MATERIAL LIST	06/06/23	3	revision	04/12/24
LL-08	LANDSCAPE LEGEND	06/06/23	0		
LL-09	PLANT MATERIAL IMAGES	06/06/23	0		
LL-10	PLANT MATERIAL IMAGES	06/06/23	0		
LL-11	PLANT MATERIAL IMAGES	06/06/23	0		
<b>IRRIGATION</b>					

Cagni Park North Project, Phase 1  
Enumeration of Contract Documents  
Exhibit 1

Sheet ID	Sheet Title	Issue Date	Rev. No.	Revision Description	Rev. Date
IR-01	IRRIGATION PLAN	05/05/23	0		
IR-02	IRRIGATION PLAN	05/05/23	0		
IR-03	IRRIGATION PLAN	05/05/23	1	DRC revision	05/31/23
IR-04	IRRIGATION PLAN	05/05/23	1	DRC revision	05/31/23
IR-05	IRRIGATION LEGEND, NOTES, AND DETAILS	05/05/23	1	DRC revision	05/31/23

## **EXHIBIT 2**





### CONTRACTOR'S FINAL PAYMENT AFFIDAVIT

State of Florida  
City of North Miami

Before me, the undersigned authority, personally appeared Vick S. Crespin, who, after being first duly sworn, deposes and says of his or her personal knowledge the following:

1. He is the Vice-President of KVC Constructors, Inc., which does business in the State of Florida, hereinafter referred to as the "Contractor."
2. Contractor, pursuant to a contract with City of North Miami, hereinafter referred to as the "Owner," has furnished or caused to be furnished labor, materials, and services for the construction of certain improvements to real property as more particularly set forth in said contract.
3. This affidavit is executed by the Contractor in accordance with section 713.06 of the Florida Statutes for the purpose of obtaining final payment from the Owner in the amount of \$xx,xxx.xx.
4. All work to be performed under the contract has been fully completed, and all lienors under the direct contract have been paid in full, except the following listed lienors:

NAME OF LIENOR

AMOUNT DUE

List Subs and balances owed.

Total:

\$Total of amounts due

Signed, sealed, and delivered this XX day of Month and Year.

\_\_\_\_\_  
By Vick S. Crespin  
Vice-President  
KVC Constructors, Inc.

Sworn to and subscribed before me this XX day of Month and Year by Vick S. Crespin, who is personally known to me and did take an oath.

\_\_\_\_\_  
Name:

Notary Public

My Commission Expires: \_\_\_\_\_ (seal)

## **EXHIBIT 3**



Form "A-10"

Successful Bidder must submit when Contract is signed

**PERFORMANCE BOND**

(This bond meets and exceeds the requirements of Florida Statutes)

**STATE OF FLORIDA)**

<sup>ss</sup>  
**COUNTY OF        )**

**KNOW ALL MEN BY THESE PRESENTS** that we, \_\_\_\_\_, as Principal, hereinafter called Contractor, and \_\_\_\_\_ as Surety, are firmly bound unto the City of North Miami, Florida, as Oblige, hereinafter called the City, in the Penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, Contractor, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into a certain contract with the City, hereto attached, for \_\_\_\_\_ Entitled, \_\_\_\_\_ which Contract is made a part hereof by reference thereto.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH**, that, if the Contractor shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract, and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation shall be void; otherwise to remain in full force and effect.

**WHENEVER** the Principal shall be and is declared by the City to be in default under the Contract, or whenever the Contract has been terminated by default of the Contractor, the City having performed the City's obligations thereunder, the Surety shall:

1. Complete the Contract in accordance with its terms and conditions, or at the City's sole option, shall:
2. Obtain a Bid or Bids for submission to the City for completing the Contract in accordance with its terms and conditions, and upon determination by the City and the Surety of the responsible Bidder, arrange for a Contract between such Bidder and the City, and make available as Work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price" as used in this paragraph, shall mean the total amount payable by the City



**Form "A-10"**

to the Contractor under the Contract and any amendments thereto, less the amount properly paid by the City to the Contractor.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein or the successors or assignees thereof.

The Surety shall and does hereby agree to indemnify the City and hold it harmless of, from and against any and all liability, loss, cost, damage or expense, including reasonable attorneys fees, engineering and City fees or other professional services which the City may incur or which may accrue or be imposed upon it by reason of any negligence, default, act and/or omission on the part of the Contractor, any Subcontractor and Contractor's or Subcontractors agents, servants and/or employees, in, about or on account of the Construction of the work and performance of said Contract by the Contractor.

This Bond shall remain in full force and effect for such period or periods of time after the date of acceptance of the project by the City as are provided for in the Contract Documents, and the Contractor hereby guarantees to repair or replace for the said periods all work performed and materials and equipment furnished, which were not performed or furnished according to the terms of the Contract Documents. If no specific periods of warranty are stated in the Contract Documents for any particular item of work, material or equipment, the Contractor hereby guarantees the same for a minimum period of one (1) year from the date of final acceptance by the City of the entire project.

Any suit on this bond must be instituted within such period or periods as may be provided by law.



EXHIBIT 3

Form "A-10"

IN WITNESS WHEREOF, the above bounded parties have caused this Bond to be executed by their appropriate officials of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

PRINCIPAL:

(If sole Proprietor or partnership)

\_\_\_\_\_

\_\_\_\_\_

(Firm Name)

BY \_\_\_\_\_

\_\_\_\_\_  
Title: (Sole Proprietor or Partner)

PRINCIPAL (If Corporation)

\_\_\_\_\_  
(Corporate Name)

BY \_\_\_\_\_  
(President)

Attest: \_\_\_\_\_  
(Secretary)

(CORPORATE SEAL)

COUNTERSIGNED BY  
RESIDENT FLORIDA  
AGENT OF SURETY:

SURETY:

\_\_\_\_\_  
(Copy of Agent's current  
License as issued by State  
of Florida Insurance  
Commissioner

\_\_\_\_\_  
By: \_\_\_\_\_  
Attorney-in-fact

(Power of Attorney must be attached)

# **AIA® Document A312™ – 2010**

## **Payment Bond**

Bond # \_\_\_\_\_

### **CONTRACTOR:**

*(Name, legal status and address)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **SURETY:**

*(Name, legal status and principal place of business)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **OWNER:**

*(Name, legal status and address)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **CONSTRUCTION CONTRACT**

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

Amount: \_\_\_\_\_

Description: \_\_\_\_\_

*(Name and location)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **BOND**

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

*(Not earlier than Construction Contract Date)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Amount: \_\_\_\_\_

Modifications to this Bond: ☐ None ☐ See Section 18

### **CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_

*(Corporate Seal)*

### **SURETY**

Company: \_\_\_\_\_

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name

and Title:

*(Any additional signatures appear on the last page of this Payment Bond.)*

Signature: \_\_\_\_\_

Name

and Title:

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312–2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.



**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

**§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.



**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company:

*(Corporate Seal)*

**SURETY**

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

**CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.**

## **EXHIBIT 4**

**EXHIBIT 4**

Please return to:  
KVC Constructors, Inc.  
9499 NE 2<sup>nd</sup> Avenue, Suite 205  
Miami Shores, FL 33138

**WAIVER AND RELEASE OF LIEN AND CLAIMS UPON PROGRESS PAYMENT**

The undersigned lienor, in consideration of the sum of \$\_\_\_\_\_, hereby waives and releases its lien and right to claim a lien, for labor, services, equipment, or materials furnished through \_\_\_\_\_ (insert date) to **KVC Constructors, Inc.** on the job of **City of North Miami** to the following property:

**CAGNI PARK NORTH PHASE 1  
875 NE 135TH STREET  
NORTH MIAMI, FL 33161**

In addition, and in consideration of the foregoing payment, the undersigned lienor hereby waives and releases any and all other claims of whatsoever kind arising from, related to, and/or in any way connected with labor, services, equipment, and materials furnished through the foregoing date on the above-referenced property.

This waiver and release does not cover any retention or labor, services, equipment, or materials furnished after the date specified.

**WAIVER OF RIGHT TO CLAIM AGAINST PAYMENT BOND (PROGRESS PAYMENT)**

The undersigned, in consideration of the sum of \$\_\_\_\_\_, hereby waives its right to claim against the payment bond for labor, services, equipment, or materials furnished through \_\_\_\_\_ (insert date), to **KVC Constructors, Inc.** on the job of **City of North Miami**, for improvements to the following described project:

**CAGNI PARK NORTH PHASE 1  
875 NE 135TH STREET  
NORTH MIAMI, FL 33161**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

\_\_\_\_\_  
(name of subcontractor/supplier/vendor)

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

Print Name: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_ on behalf of the \_\_\_\_\_ corporation/limited liability company. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC - State of Florida  
My commission expires:

(Notary Seal)

## **EXHIBIT 5**



## Contract Exhibit 5

### KVC Constructors, Inc Community Benefits Plan

KVC Constructors' proposed community benefits plan is aimed at promoting local hiring and participation in the construction of the Cagni Park Phase 1 Project. Our proposed plan will be adaptable, responsive to community needs, and aligned with the broader city objectives for inclusive growth and prosperity.

#### 1 Local Hiring Commitment

- **Assessment and Analysis:** Conduct a comprehensive assessment of local workforce demographics, economic needs, and available resources.
- **Targeted Hiring Goals:** Establish specific subcontractor hiring needs for residents, including list of subcontractors and/ or vendors hiring for jobs to be filled by City of North Miami residents.
- **Collaborate with Local Workforce Programs or Staffing Agencies:** Partner with local workforce development agencies, to identify and prepare local talent for construction-related job opportunities.
- **Job Fairs and Recruitment Events:** Host a job fair and/ or recruitment events specifically targeting city residents and local businesses to inform them about job opportunities on the project.
- **Preference for Local Contractors, Vendors & Suppliers:** Encourage subcontractors to partner with local businesses and vendors. Promote material and/ or equipment sourcing from local suppliers for the construction project.

#### 2. Training and Skill Development

- **Workforce Diversity and Inclusion:** Ensure equal opportunities for women, minorities, and small business enterprises through targeted outreach, marketing, and support programs.

#### 3. Community Engagement and Outreach

- **Public Awareness:** Develop a comprehensive communication strategy to raise public awareness about the community benefits plan, highlighting its potential impact on residents and businesses.
- **Media Engagement:** Coordinate with city communications teams to leverage media platforms for promoting local hiring and participation.



- **Stakeholder Meetings:** Organize meetings with the City of North Miami purchasing agent or designated city personnel to gather input, address concerns, and inform residents about potential hiring opportunities.
- **Identify Key Stakeholders:** Identify and engage key stakeholders including city council members, local community leaders, labor unions, and advocacy groups.
- **Hold an Information Session:** Host informational session(s) to educate stakeholders about the community benefits plan and solicit feedback.
- **Invitations to Bid:** Contact qualified small business enterprises, minority business enterprises, professional service providers, subcontractors, suppliers and vendors to compete for project opportunities.
- **Regular Meetings:** Schedule regular meetings with city personnel and stakeholders
- **Regular Updates and Transparency:** Provide ongoing updates and transparency about hiring progress, to monitor progress, address challenges, and adjust as needed.

#### **Implementation Strategy**

- **Task Force or Committee:** Form a dedicated team or committee responsible for overseeing the implementation of the proposed community benefits plan.
- **Adaptation and Flexibility:** Remain adaptable to changing circumstances and community needs, adjusting strategies and tactics as necessary to achieve desired outcomes.

KVC Constructors will work and collaborate with city personnel on implementing the community benefits plan focused on local hiring and participation. The public construction project will not only achieve its infrastructure goals but also contribute to the economic growth of the city.

By following this structured approach and actively involving city personnel in the initiation and implementation of the community benefits plan, we can ensure alignment with municipal goals, and foster a sense of ownership and accountability among all stakeholders involved.