Woodland Ranch Estates Community Development District

Meeting Agenda

July 10, 2024

AGENDA

Woodland Ranch Estates Community Development District

219 E. Livingston St., Orlando, Florida 32801 Phone: 407-841-5524 – Fax: 407-839-1526

July 3, 2024

Board of Supervisors Meeting Woodland Ranch Estates Community Development District

Dear Board Members:

A meeting of the Board of Supervisors of the Woodland Ranch Estates Community Development District will be held on Monday, July 10, 2024 at 2:00 PM at the Holiday Inn—Winter Haven, 200 Cypress Gardens Blvd., Winter Haven, FL 33880.

Zoom Video Join Link: https://us06web.zoom.us/j/88169154964

Call-In Information: 1-646-876-9923

Meeting ID: 881 6915 4964

Following is the advance agenda for the meeting:

Board of Supervisors Meeting

- 1. Roll Call
- 2. Public Comment Period (¹Speakers will fill out a card and submit it to the District Manager prior to the beginning of the meeting)
- 3. Approval of Minutes of the April 8, 2024 Board of Supervisors Meeting
- 4. Public Hearing
 - A. Public Hearing on the Adoption of the Fiscal Year 2024/2025 Budget
 - i. Consideration of Resolution 2024-05 Adopting the District's Fiscal Year 2024/2025 Budget and Appropriating Funds
 - ii. Consideration of Fiscal Year 2024/2025 Developer Funding Agreement
- 5. Consideration of Resolution 2024-06 Designation of a Regular Monthly Meeting Date, Time, and Location for Fiscal Year 2024/2025
- 6. Consideration of the Adoption of Goals and Objectives for the District
- 7. Ratification of Construction Assignment Documents
 - A. Agreement between Owner and Contractor for Construction Contract
 - B. Addendum to EJCDC Lump Sum Price Contract Potentially Time and Price-Impacted Materials
 - C. Assignment of Contractor Agreement with Tucker Paving, Inc.
 - D. Demand Note Agreement
 - E. Construction Funding Agreement
- 8. Presentation of Fiscal Year 2023 Audit Report
- 9. Staff Reports
 - A. Attorney

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¹ Comments will be limited to three (3) minutes

- B. Engineer
- C. District Manager's Report
 - i. Ratification of Funding Requests #10 through #13ii. Approval of Check Register

 - iii. Balance Sheet & Income Statement
 - iv. Presentation of Number of Registered Voters—0
- 10. Other Business
- 11. Supervisors Requests and Audience Comments
- 12. Adjournment

MINUTES

MINUTES OF MEETING WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Woodland Ranch Estates Community Development District was held Monday, **April 8, 2024** at 2:00 p.m. at the Holiday Inn – Winter Haven, 200 Cypress Gardens Blvd., Winter Haven, Florida.

Present and constituting a quorum:

Brent Elliott Chairman

Karen Ritchie Assistant Secretary
Timothy Todd Assistant Secretary

Also present were:

Jill Burns District Manager, GMS

Chris Loy District Counsel, Kilinski Van Wyk
Lauren Gentry District Counsel, Kilinski Van Wyk
Bryan Hunter by Zoom District Engineer, Hunter Engineering

FIRST ORDER OF BUSINESS

Roll Call

Ms. Burns called the meeting to order and called the roll. Three Board members were present constituting a quorum.

SECOND ORDER OF BUSNESS

Public Comment Period

Ms. Burns noted that there were no members of the public present in person or attending via Zoom.

THIRD ORDER OF BUSINESS

Approval of Minutes of the October 11, 2023 Board of Supervisors Meeting

Ms. Burns presented the minutes from the October 11, 2023 Board of Supervisors meeting. She asked if there were any questions, comments, or corrections. The Board had no changes to the minutes.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, the Minutes of the October 11, 2023 Board of Supervisor Meeting, were approved.

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2024-03 Approving the Proposed Fiscal Year 2024/2025 Budget (Suggested Date: July 10, 2024) and Setting the Public Hearing on the Adoption of the Fiscal Year 2024/2025 Budget

Ms. Burns stated the public hearing will be set for July 10th which is the regular July meeting. This budget is developer funded for the upcoming year. She noted the contingency line item that says \$75,000 she wants to increase to \$150,000 based on the one-year time line of construction and will only have a couple of months of mowing the common areas. She asked for a motion to approve as amended.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, Resolution 2024-03 Approving the Proposed Fiscal Year 2024/2025 Budget and Setting the Public Hearing for July 10, 2024 on the Adoption of the Fiscal Year 2024/2025 Budget, was approved.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2024-04 Designating a Date, Time, and Location for a Landowners' Meeting and Election

Ms. Burns stated this will be held in November. By statute the first two have to be held on the first Tuesday of November so the date has to be November 5th. The proposed time is 1:10 p.m.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, Resolution 2024-04 Designating November 5, 2024 at 1:10 p.m. at Holiday Inn -Winter Haven for a Landowners' Meeting and Election, was approved.

SIXTH ORDER OF BUSINESS

Consideration of 2024 Non-Ad Valorem Contract Agreement with Polk County Property Appraiser

Ms. Burns stated this is the annual renewal of the contract and they are not collecting on the assessment roll for the upcoming year but keep the renewal in place. On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, the 2024 Non-Ad Valorem Contract Agreement with Polk County Property Appraiser, was approved.

SEVENTH ORDER OF BUSINESS

Ratification of 2024 Data Sharing and Usage Agreement with Polk County Property Appraiser

Ms. Burns noted this states the District won't turn over exempt records on people such as police officers or judges who may be exempt from having their address disclosed.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, the 2024 Data Sharing and Usage Agreement with Polk County Property Appraiser, was ratified.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Gentry stated she will continue monitoring the bills to make sure they are signed by the governor and work with Jills office to get templates and policies in place where needed in light of those legislative changes. Her office will dust off those previously approved documents since construction is beginning. She will get those underway and everything assigned to the CDD.

B. Engineer

Mr. Hunter noted the project is officially under construction. He did have the preconstruction meetings with the contractor and Polk County and a separate meeting with the Town of Dundee.

C. District Manager's Report

- i. Approval of Check Register
- ii. Balance Sheet & Income Statement

Ms. Burns presented the check register from September 20, 2023 through March 29, 2024 totaling \$25,292.36 for approval. She offered to answer any questions. She noted financial states are also in the package for review if anyone has any questions on those but there is no action necessary.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, the Check Register totaling \$25,292.36, was approved.

NINTH ORDER OF BUSINESS

Other Business

There being no comments, the next item followed.

TENTH ORDER OF BUSINESS

Supervisors Requests and Audience Comments

There being no comments, the next item followed.

ELEVENTH ORDER OF BUSINESS

Adjournment

Ms. Burns adjourned the meeting.

On MOTION by Mr. Elliott, seconded by Ms. Ritchie, with all in favor, the meeting was adjourned.

Secretary/Assistant Secretary	Chairman/Vice Chairman

SECTION IV

SECTION A

SECTION 1

RESOLUTION 2024-05

THE ANNUAL APPROPRIATION RESOLUTION OF THE WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT") RELATING TO THE ANNUAL APPROPRIATIONS AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2024, AND ENDING SEPTEMBER 30, 2025; AUTHORIZING BUDGET AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the District Manager has, prior to the fifteenth (15th) day in June, 2024, submitted to the Board of Supervisors ("Board") of the Woodland Ranch Estates Community Development District ("District") proposed budget ("Proposed Budget") for the fiscal year beginning October 1, 2024 and ending September 30, 2025 ("Fiscal Year 2025") along with an explanatory and complete financial plan for each fund of the District, pursuant to the provisions of Section 190.008(2)(a), *Florida Statutes*; and

WHEREAS, at least sixty (60) days prior to the adoption of the Proposed Budget, the District filed a copy of the Proposed Budget with the local governing authorities having jurisdiction over the area included in the District pursuant to the provisions of Section 190.008(2)(b), Florida Statutes; and

WHEREAS, the Board set a public hearing thereon and caused notice of such public hearing to be given by publication pursuant to Section 190.008(2)(a), *Florida Statutes*; and

WHEREAS, the District Manager posted the Proposed Budget on the District's website at least two days before the public hearing; and

WHEREAS, Section 190.008(2)(a), *Florida Statutes*, requires that, prior to October 1st of each year, the Board, by passage of the Annual Appropriation Resolution, shall adopt a budget for the ensuing fiscal year and appropriate such sums of money as the Board deems necessary to defray all expenditures of the District during the ensuing fiscal year; and

WHEREAS, the District Manager has prepared a Proposed Budget, whereby the budget shall project the cash receipts and disbursements anticipated during a given time period, including reserves for contingencies for emergency or other unanticipated expenditures during the fiscal year.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. BUDGET

- a. The Board has reviewed the Proposed Budget, a copy of which is on file with the office of the District Manager and at the District's Local Records Office, and hereby approves certain amendments thereto, as shown in Section 2 below.
- b. The Proposed Budget, attached hereto as **Exhibit A**, as amended by the Board, is hereby adopted in accordance with the provisions of Section 190.008(2)(a), *Florida Statutes* ("**Adopted Budget**"), and incorporated herein by reference; provided, however, that the comparative figures contained in the Adopted Budget may be subsequently revised as deemed necessary by the District Manager to reflect actual revenues and expenditures.
- c. The Adopted Budget, as amended, shall be maintained in the office of the District Manager and at the District's Local Records Office and identified as "The Budget for the Woodland Ranch Estates Community Development District for the Fiscal Year Ending September 30, 2025."
- d. The Adopted Budget shall be posted by the District Manager on the District's official website within thirty (30) days after adoption, and shall remain on the website for at least 2 years.

SECTION 2. APPROPRIATIONS

TOTAL GENERAL FUND

There is he	reby appropriated out of the revenues of the District, for Fiscal Year 2025, the
sum of \$	to be raised by the levy of assessments and/or otherwise, which
sum is deemed by	the Board to be necessary to defray all expenditures of the District during said
budget year, to be	divided and appropriated in the following fashion:

SECTION 3. BUDGET AMENDMENTS

Pursuant to Section 189.016, *Florida Statutes*, the District at any time within Fiscal Year 2025 or within 60 days following the end of the Fiscal Year 2025 may amend its Adopted Budget for that fiscal year as follows:

- a. A line-item appropriation for expenditures within a fund may be decreased or increased by motion of the Board recorded in the minutes, and approving the expenditure, if the total appropriations of the fund do not increase.
- b. The District Manager or Treasurer may approve an expenditure that would increase or decrease a line-item appropriation for expenditures within a fund if the total appropriations of the fund do not increase and if either (i) the aggregate change in the original appropriation item does not exceed the greater of \$15,000 or 15% of the original appropriation, or (ii) such expenditure is authorized by separate disbursement or spending resolution.

c. Any other budget amendments shall be adopted by resolution and consistent with Florida law.

The District Manager or Treasurer must ensure that any amendments to the budget under paragraph c. above are posted on the District's website within 5 days after adoption and remain on the website for at least 2 years.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 10th DAY OF JULY 2024.

ATTEST:	WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT
	By:
Secretary/Assistant Secretary	Its:

Exhibit A: Adopted Budget for Fiscal Year 2025

Community Development District

Proposed Budget FY2025



Table of Contents

1	General Fund
2-4	General Fund Narrative

Community Development District

Proposed Budget General Fund

Description	Adopted Budget FY2024		Actuals Thru 5/31/24		Projected Next 4 Months	Projected Thru 9/30/24		Proposed Budget FY2025
Revenues								
Developer Contributions	\$	219,510	\$	24,247	\$ 44,100	\$	68,346	\$ 294,510
Total Revenues	\$	219,510	\$	24,247	\$ 44,100	\$	68,346	\$ 294,510
<u>Expenditures</u>								
General & Administrative								
Supervisor Fees	\$	12,000	\$	-	\$ -	\$	_	\$ 12,000
Engineering Fees	\$	15,000	\$	375	\$ 1,875	\$	2,250	\$ 15,000
Attorney Fees	\$	25,000	\$	3,949	\$ 1,975	\$	5,924	\$ 25,000
Annual Audit	\$	4,000	\$	3,000	\$ -	\$	3,000	\$ 4,000
Assessment Administration	\$	5,000	\$	-	\$ -	\$	-	\$ 5,000
Arbitrage	\$	450	\$	-	\$ -	\$	-	\$ 450
Dissemination Fees	\$	5,000	\$	-	\$ -	\$	-	\$ 5,000
Trustee Fees	\$	4,100	\$	-	\$ -	\$	-	\$ 4,100
Management Fees	\$	37,500	\$	15,625	\$ 12,500	\$	28,125	\$ 37,500
Information Technology	\$	1,800	\$	750	\$ 600	\$	1,350	\$ 1,800
Website Maintenance	\$	1,200	\$	500	\$ 400	\$	900	\$ 1,200
Postage & Delivery	\$	1,000	\$	5	\$ 35	\$	40	\$ 1,000
Insurance	\$	5,000	\$	5,000	\$ -	\$	5,000	\$ 5,000
Copies	\$	1,000	\$	-	\$ 250	\$	250	\$ 1,000
Legal Advertising	\$	20,000	\$	374	\$ 1,585	\$	1,959	\$ 20,000
Contingencies	\$	5,000	\$	313	\$ 180	\$	493	\$ 5,000
Office Supplies	\$	625	\$	5	\$ 25	\$	30	\$ 625
Travel Per Diem	\$	660	\$	-	\$ 100	\$	100	\$ 660
Dues, Licenses & Subscriptions	\$	175	\$	175	\$ -	\$	175	\$ 175
Total General & Administrative	\$	144,510	\$	30,071	\$ 19,525	\$	49,596	\$ 144,510
Operations & Maintenance								
Field Expenditures								
Contingency	\$	75,000	\$	-	\$ 18,750	\$	18,750	\$ 150,000
Subtotal Field Expenditures	\$	75,000	\$	-	\$ 18,750	\$	18,750	\$ 150,000
Total Expenditures	\$	219,510	\$	30,071	\$ 38,275	\$	68,346	\$ 294,510
Excess Revenues/(Expenditures)	\$	-	\$	(5,824)	\$ 5,824	\$	-	\$ -

Community Development District General Fund Budget

Revenues:

Developer Contributions

The District will enter into a funding agreement with the Developer to fund the General Fund expenditures for the Fiscal Year.

Expenditures:

General & Administrative:

Supervisor Fees

Chapter 190, Florida Statutes, allows for each Board member to receive \$200 per meeting, not to exceed \$4,800 per year paid to each Supervisor for the time devoted to District business and meetings.

Engineering

The District's engineer will be providing general engineering services to the District, e.g. attendance and preparation for monthly board meetings, review invoices and various projects as directed by the Board of Supervisors and the District Manager.

Attorney

The District's legal counsel will be providing general legal services to the District, e.g. attendance and preparation for meetings, preparation and review of agreements, resolutions, etc. as directed by the Board of Supervisors and the District Manager.

Annual Audit

The District is required by Florida Statutes to arrange for an independent audit of its financial records on an annual basis.

Assessment Administration

The District will contract to levy and administer the collection of non-ad valorem assessment on all assessable property within the District.

<u>Arbitrage</u>

The District will contract with an independent certified public accountant to annually calculate the District's Arbitrage Rebate Liability on an anticipated bond issuance.

Dissemination

The District is required by the Security and Exchange Commission to comply with Rule 15c2-12(b)(5) which relates to additional reporting requirements for unrated bond issues. This cost is based upon an anticipated bond issuance.

Community Development District General Fund Budget

Trustee Fees

The District will incur trustee related costs with the issuance of its' issued bonds.

Management Fees

The District receives Management, Accounting and Administrative services as part of a Management Agreement with Governmental Management Services-Central Florida, LLC. The services include but are not limited to, recording and transcription of board meetings, administrative services, budget preparation, all financial reports, annual audits, etc.

Information Technology

Represents costs related to the District's information systems, which include but are not limited to video conferencing services, cloud storage services and servers, positive pay implementation and programming for fraud protection, accounting software, tablets for meetings, Adobe, Microsoft Office, etc.

Website Maintenance

Represents the costs associated with monitoring and maintaining the District's website created in accordance with Chapter 189, Florida Statutes. These services include site performance assessments, security and firewall maintenance, updates, document uploads, hosting and domain renewals, website backups, etc.

Postage & Delivery

The District incurs charges for mailing of Board meeting agenda packages, overnight deliveries, correspondence, etc.

<u>Insurance</u>

The District's general liability and public official's liability insurance coverages.

Printing & Binding

Printing and Binding agenda packages for board meetings, printing of computerized checks, stationary, envelopes, etc.

Legal Advertising

The District is required to advertise various notices for monthly Board meetings, public hearings, etc. in a newspaper of general circulation.

Other Current Charges

Bank charges and any other miscellaneous expenses incurred during the year.

Office Supplies

Any supplies that may need to be purchased during the fiscal year, e.g., paper, minute books, file folders, labels, paper clips, etc.

Community Development District General Fund Budget

<u>Travel Per Diem</u>

The Board of Supervisors can be reimbursed for travel expenditures related to the conducting of District business.

Dues, Licenses & Subscriptions

The District is required to pay an annual fee to the Florida Department of Economic Opportunity for \$175. This is the only expense under this category for the District.

Field Services:

Field Contingency

Represents funds allocated to expenses that the District could incur throughout the fiscal year.

SECTION 2

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT FISCAL YEAR 2025 FUNDING AGREEMENT

This agreement	("Agreement")	is made	and	entered	into	this	 day	of	
2024, by and between:									

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, and located in Polk County, Florida ("District"), and

WOODLAND RANCH ESTATES, LLC, a Florida limited liability company and a landowner in the District ("Developer") with an address of 4900 Dundee Road, Winter Haven, FL 33884.

RECITALS

WHEREAS, the District was established by an ordinance adopted by the Town Commission of Dundee, Florida, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District, pursuant to Chapter 190, Florida Statutes, is authorized to levy such taxes, special assessments, fees and other charges as may be necessary in furtherance of the District's activities and services; and

WHEREAS, Developer presently owns and/or is developing the majority of all real property described in **Exhibit A**, attached hereto and incorporated herein ("**Property**"), within the District, which Property will benefit from the timely construction and acquisition of the District's facilities, activities and services and from the continued operations of the District; and

WHEREAS, the District is adopting its general fund budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025 ("Fiscal Year 2025 Budget"); and

WHEREAS, this Fiscal Year 2025 Budget, which both parties recognize may be amended from time to time in the sole discretion of the District, is attached hereto and incorporated herein by reference as **Exhibit B**; and

WHEREAS, the District has the option of levying non-ad valorem assessments on all land, including the Property, that will benefit from the activities, operations and services set forth in the Fiscal Year 2025 Budget, or utilizing such other revenue sources as may be available to it; and

WHEREAS, in lieu of levying assessments on the Property, the Developer is willing to provide such funds as are necessary to allow the District to proceed with its operations as described in **Exhibit B**; and

WHEREAS, the Developer agrees that the activities, operations and services provide a special and peculiar benefit equal to or in excess of the costs reflected on **Exhibit B** to the Property; and

WHEREAS, the Developer has agreed to enter into this Agreement in lieu of having the District levy and collect any non-ad valorem assessments as authorized by law against the Property located within the District for the activities, operations and services set forth in **Exhibit B**; and

WHEREAS, Developer and District desire to secure such budget funding through the imposition of a continuing lien against the Property described in **Exhibit A** and otherwise as provided herein.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt of which and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. **FUNDING.** The Developer agrees to make available to the District the monies necessary for the operation of the District as called for in the budget attached hereto as **Exhibit B**, as may be amended from time to time in the District's sole discretion, within fifteen (15) days of written request by the District. Amendments to the Fiscal Year 2025 Budget as shown on **Exhibit B** adopted by the District at a duly noticed meeting shall have the effect of amending this Agreement without further action of the parties. Funds provided hereunder shall be placed in the District's general checking account. These payments are made by the Developer in lieu of taxes, fees, or assessments which might otherwise be levied or imposed by the District.
- 2. **CONTINUING LIEN.** District shall have the right to file a continuing lien upon the Property described in Exhibit A for all payments due and owing under the terms of this Agreement and for interest thereon, and for reasonable attorneys' fees, paralegals' fees, expenses and court costs incurred by the District incident to the collection of funds under this Agreement or for enforcement this lien, and all sums advanced and paid by the District for taxes and payment on account of superior interests, liens and encumbrances in order to preserve and protect the District's lien. The lien shall be effective as of the date and time of the recording of a "Notice of Lien for Fiscal Year 2025 Budget" in the public records of Polk County, Florida ("County"), stating among other things, the description of the real property and the amount due as of the recording of the Notice, and the existence of this Agreement. The District Manager, in its sole discretion, is hereby authorized by the District to file the Notice of Lien for Fiscal Year 2025 Budget on behalf of the District, without the need of further Board action authorizing or directing such filing. At the District Manager's direction, the District may also bring an action at law against the record title holder to the Property to pay the amount due under this Agreement or may foreclose the lien against the Property in any manner authorized by law. The District may partially release any filed lien for portions of the Property subject to a plat if and when the Developer has demonstrated, in the District's sole discretion, such release will not materially impair the ability of the District to enforce the collection of funds hereunder. In the event the Developer sells any of the Property described in Exhibit A after the execution of this Agreement, the Developer's rights and obligations under this Agreement shall remain the same, provided however that the District shall only have the right to file a lien upon the remaining Property owned by the Developer.

3. ALTERNATIVE COLLECTION METHODS.

- a. In the alternative or in addition to the collection method set forth in Paragraph 2 above, the District may enforce the collection of funds due under this Agreement by action against the Developer in the appropriate judicial forum in and for the County. The enforcement of the collection of funds in this manner shall be in the sole discretion of the District Manager on behalf of the District. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the parties agree that the prevailing party shall be entitled to recover from the other all costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.
- b. The District hereby finds that the activities, operations and services set forth in **Exhibit B** provide a special and peculiar benefit to the Property, which benefit is initially allocated on an equal developable acreage basis. The Developer agrees that the activities, operations and services set forth in **Exhibit B** provide a special and peculiar benefit to the Property equal to or in excess of the costs set forth in **Exhibit B**, on an equal developable acreage basis. Therefore, in the alternative or in addition to the other methods of collection set forth in this Agreement, the District, in its sole discretion, may choose to certify amounts due hereunder as a non-ad valorem assessment on all or any part of the Property for collection, either through the Uniform Method of Collection set forth in Chapter 197, Florida Statutes, or under any method of direct bill and collection authorized by Florida law. Such assessment, if imposed, may be certified on the next available tax roll of the County property appraiser.
- 4. **AGREEMENT; AMENDMENTS.** This instrument shall constitute the final and complete expression of the agreement between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.
- 5. **AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all the requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.
- 6. **ASSIGNMENT.** This Agreement may be assigned, in whole or in part, by either party only upon the written consent of the other, which consent shall not be unreasonably withheld.
- 7. **DEFAULT.** A default by either party under this Agreement shall entitle the other to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance and specifically including the ability of the District to enforce any and all payment obligations under this Agreement in the manner described herein in Paragraphs 2 and 3 above.
- 8. **THIRD PARTY RIGHTS; TRANSFER OF PROPERTY.** This Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in

this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns. In the event the Developer sells or otherwise disposes of its business or of all or substantially all of its assets relating to improvements, work product, or lands within the District, the Developer shall continue to be bound by the terms of this Agreement and additionally shall expressly require that the purchaser agree to be bound by the terms of this Agreement. The Developer shall give 90 days prior written notice to the District under this Agreement of any such sale or disposition.

- 9. **FLORIDA LAW GOVERNS.** This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida.
- 10. **ARM'S LENGTH TRANSACTION.** This Agreement has been negotiated fully between the parties as an arm's length transaction. The parties participated fully in the preparation of this Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of any provision of this Agreement, the parties are each deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against any party.
- 11. **EFFECTIVE DATE.** The Agreement shall be effective after execution by both parties hereto. The enforcement provisions of this Agreement shall survive its termination, until all payments due under this Agreement are paid in full.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties execute this Agreement the day and year first written above.

Attest:	WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT					
Secretary/Assistant Secretary	By: Its:					
	WOODLAND RANCH ESTATES, LLC a Florida limited liability company					
Witness	By: Center State Development 2, LLC Its: Manager					
	By: HRB Land Investments, LLC Its: Manager					
Witness	By: Harold R. Baxter, as Manager of HRB Land Investments, LLC					
	By: RJA Land and Development, LLC Its: Manager					
Witness	By: Robert J. Adams, as Manager of RJA Land and Development, LLC					

EXHIBIT A: Property Description **EXHIBIT B**: Fiscal Year 2025 Budget

Exhibit A Property Description

A PARCEL OF LAND LOCATED IN SECTIONS 25 AND 26, TOWNSHIP 28 SOUTH, RANGE 27 EAST, POLK COUNTY,

FLORIDA, BEING ALL THE LANDS CONVEYED BY DEED TO WEBINGA DEOBORAH ANN DESCRIBED IN OFFICIAL

RECORDS BOOK 10912, PAGE 446 AND ALL THE LANDS CONVEYED BY DEED TO WOODLAND RANCH ESTATES LLC, OFFICIAL RECORDS BOOK 12012, PAGE 550, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE EAST 1/4 CORNER OF SAID SECTION 26; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 25, N88°49'15"E, A DISTANCE OF 72.75 FEET TO THE NORTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 10912, PAGE 446, ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 25, N88°49'15"E, A DISTANCE OF 1240.65 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25; THENCE DEPARTING THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 25, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25, S01°20'21"€, A DISTANCE OF 1331.98 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25; THENCE ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF THE OF THE SOUTHWEST 1/4 OF SAID SECTION 25, S01°22'31"E, A DISTANCE OF 540.36 FEET TO THE NORTHERLY LINE OF THE SOUTH 792 FEET; THENCE ALONG SAID NORTHERLY LINE, \$87°55'44"W, A DISTANCE OF 280.02 FEET TO THE WESTERLY LINE OF THE EAST 280 FEET; THENCE ALONG SAID WESTERLY LINE, S01°22'31"E, A DISTANCE OF 792.12 FEET TO THE SOUTH LINE OF SAID SECTION 25; THENCE ALONG THE SOUTH LINE OF SAID SECTION 25, S87°55'56"W, A DISTANCE OF 1022.92 FEET TO SOUTHWEST CORNER OF SAID SECTION 25; THENCE DEPARTING THE SOUTHWEST CORNER OF SAID SECTION 25, ALONG THE EAST LINE OF SAID SECTION 26, N01°34'57"W, A DISTANCE OF 671.18 FEET TO THE NORTHEAST CORNER OF TRACT "A" OF THE PLAT OF WALDEN VISTA AS DESCRIBED IN PLAT BOOK 129, PAGES 29-30, PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE DEPARTING THE EAST LINE OF SAID SECTION 26, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26, S89°30'13"W, A DISTANCE OF 1294.83 FEET TO THE EAST RIGHT-OF-WAY LINE (AS PER GCCUPATION) OF HL SMITH ROAD; THENCE DEPARTING THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26, ALONG THE EAST RIGHT-OF-WAY LINE (AS PER OCCUPATION) OF SAID HL SMITH ROAD, N01°19'19"W, A DISTANCE OF 1339.34 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE DEPARTING THE EAST RIGHT-OF-WAY LINE (AS PER OCCUPATION) OF SAID HL SMITH ROAD, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26, N89°22'25"E, A DISTANCE OF 1329.69 FEET; THENCE DEPARTING THE

NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 26, N01°07'31"E, A DISTANCE OF 672.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 114.096 ACRES OF LAND, MORE OR LESS.

A PARCEL OF LAND LOCATED IN SECTION 26, TOWNSHIP 28 SOUTH, RANGE 27 EAST, CITY OF DUNDEE, POLK COUNTY, FLORIDA, BEING ALL THE LANDS CONVEYED BY DEED TO TURNER INVESTMENTS LTD, AS DESCRIBED IN OFFICIAL RECORDS BOOK 10612, PAGE 137, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 26; THENCE ALONG THE NORTH LINE OF SAID SECTION 26, N89°18'29"E, A DISTANCE OF 1325.62 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE SE 1/4 OF SAID SECTION 26; THENCE DEPARTING THE NORTH LINE OF SAID SECTION 26, ALONG THE EAST LINE OF THE WEST 1/2 OF THE SE 1/4 OF SAID SECTION 26, S01°19'19"E, A DISTANCE OF 669.71 FEET TO THE NORTHEAST CORNER OF THE SE 1/4 OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 26: THENCE DEPARTING THE EAST LINE OF THE WEST 41/2 OF THE SE 1/4 OF SAID SECTION 26, ALONG THE NORTH LINE OF THE SE 1/4 OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 26, \$89°22'51"W, A DISTANCE OF 9.00 FEET TO THE WEST MAINTAINED RIGHT-OF-WAY LINE OF HL SMITH ROAD (VARIABLE-WIDTH RIGHT OF WAY, POLK COUNTY MAINTAINED RIGHT-OF-WAY MAP, M.B. 4, PGS. 182-190) AND TO THE POINT OF BEGINNING; THENCE DEPARTING THE NORTH LINE OF THE SE 1/4 OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 26, ALONG THE WEST MAINTAINED RIGHT-OF-WAY LINE OF SAID HL SMITH ROAD THE FOLLOWING EIGHT (8) COURSES: 1) S01°19'19"E, A DISTANCE OF 8.89 FEET; 2) S01°19'19"E, A DISTANCE OF 100.00 FEET; 3) S01°53'41"E, A DISTANCE OF 100.00 FEET; 4) S01°19'19"E, A DISTANCE OF 100.00 FEET; 5) S01°19'19"E, A DISTANCE OF 100.00 FEET; 6) S01°53'41"E, A DISTANCE OF 100.00 FEET; 7) S01°53'41"E, A DISTANCE OF 100.00 FEET; 8) S01°53'41"E, A DISTANCE OF 60.73 FEET TO THE NORTH LINE OF THE N 1/2 OF THE SE 1/4 OF THE SE 1/4 OF SAID SECTION 26 AND TO THE NORTH LINE OF THE PLAT OF MABEL LOOP RIDGE, PHASE 1, A REPLAT, AS RECORDED IN PLAT BOOK 151, PAGES 15-19 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA: THENCE DEPARTING THE WEST MAINTAINED RIGHT-OF-WAY LINE OF SAID HL SMITH ROAD, ALONG THE NORTH LINE OF THE N 1/2 OF THE SE 1/4 OF THE SE 1/4 OF SAID SECTION 26 AND THE NORTH LINE OF THE PLAT OF MABEL LOOP RIDGE, PHASE 1, A REPLAT, S89°26'19"W, A DISTANCE OF 671.87 FEET; THENCE N01°40'44"W, A DISTANCE OF 668.92 FEET TO THE SOUTHWEST CORNER OF LOT 4, OVERLCOK VIEW, AS RECORDED IN PLAT BOOK 83, PAGE 14 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF OVERLOOK VIEW, N89°22'48"E, A DISTANCE OF 672.43 FEET TO THE POINT OF BEGINNING.

CONTAINING 10.319 ACRES (449475 SQUARE FEET) OF LAND, MORE OR LESS.

EXHIBIT B Fiscal Year 2025 Budget

Community Development District

Proposed Budget FY2025



Table of Contents

1	General Fund
2-4	General Fund Narrative

Community Development District

Proposed Budget General Fund

Description	Adopted Budget FY2024		Actuals Thru 5/31/24		Projected Next 4 Months	Projected Thru 9/30/24		Proposed Budget FY2025
Revenues								
Developer Contributions	\$	219,510	\$	24,247	\$ 44,100	\$	68,346	\$ 294,510
Total Revenues	\$	219,510	\$	24,247	\$ 44,100	\$	68,346	\$ 294,510
<u>Expenditures</u>								
General & Administrative								
Supervisor Fees	\$	12,000	\$	-	\$ -	\$	_	\$ 12,000
Engineering Fees	\$	15,000	\$	375	\$ 1,875	\$	2,250	\$ 15,000
Attorney Fees	\$	25,000	\$	3,949	\$ 1,975	\$	5,924	\$ 25,000
Annual Audit	\$	4,000	\$	3,000	\$ -	\$	3,000	\$ 4,000
Assessment Administration	\$	5,000	\$	-	\$ -	\$	-	\$ 5,000
Arbitrage	\$	450	\$	-	\$ -	\$	-	\$ 450
Dissemination Fees	\$	5,000	\$	-	\$ -	\$	-	\$ 5,000
Trustee Fees	\$	4,100	\$	-	\$ -	\$	-	\$ 4,100
Management Fees	\$	37,500	\$	15,625	\$ 12,500	\$	28,125	\$ 37,500
Information Technology	\$	1,800	\$	750	\$ 600	\$	1,350	\$ 1,800
Website Maintenance	\$	1,200	\$	500	\$ 400	\$	900	\$ 1,200
Postage & Delivery	\$	1,000	\$	5	\$ 35	\$	40	\$ 1,000
Insurance	\$	5,000	\$	5,000	\$ -	\$	5,000	\$ 5,000
Copies	\$	1,000	\$	-	\$ 250	\$	250	\$ 1,000
Legal Advertising	\$	20,000	\$	374	\$ 1,585	\$	1,959	\$ 20,000
Contingencies	\$	5,000	\$	313	\$ 180	\$	493	\$ 5,000
Office Supplies	\$	625	\$	5	\$ 25	\$	30	\$ 625
Travel Per Diem	\$	660	\$	-	\$ 100	\$	100	\$ 660
Dues, Licenses & Subscriptions	\$	175	\$	175	\$ -	\$	175	\$ 175
Total General & Administrative	\$	144,510	\$	30,071	\$ 19,525	\$	49,596	\$ 144,510
Operations & Maintenance								
Field Expenditures								
Contingency	\$	75,000	\$	-	\$ 18,750	\$	18,750	\$ 150,000
Subtotal Field Expenditures	\$	75,000	\$	-	\$ 18,750	\$	18,750	\$ 150,000
Total Expenditures	\$	219,510	\$	30,071	\$ 38,275	\$	68,346	\$ 294,510
Excess Revenues/(Expenditures)	\$	-	\$	(5,824)	\$ 5,824	\$	-	\$ -

Community Development District General Fund Budget

Revenues:

Developer Contributions

The District will enter into a funding agreement with the Developer to fund the General Fund expenditures for the Fiscal Year.

Expenditures:

General & Administrative:

Supervisor Fees

Chapter 190, Florida Statutes, allows for each Board member to receive \$200 per meeting, not to exceed \$4,800 per year paid to each Supervisor for the time devoted to District business and meetings.

Engineering

The District's engineer will be providing general engineering services to the District, e.g. attendance and preparation for monthly board meetings, review invoices and various projects as directed by the Board of Supervisors and the District Manager.

Attorney

The District's legal counsel will be providing general legal services to the District, e.g. attendance and preparation for meetings, preparation and review of agreements, resolutions, etc. as directed by the Board of Supervisors and the District Manager.

Annual Audit

The District is required by Florida Statutes to arrange for an independent audit of its financial records on an annual basis.

Assessment Administration

The District will contract to levy and administer the collection of non-ad valorem assessment on all assessable property within the District.

<u>Arbitrage</u>

The District will contract with an independent certified public accountant to annually calculate the District's Arbitrage Rebate Liability on an anticipated bond issuance.

Dissemination

The District is required by the Security and Exchange Commission to comply with Rule 15c2-12(b)(5) which relates to additional reporting requirements for unrated bond issues. This cost is based upon an anticipated bond issuance.

Community Development District General Fund Budget

Trustee Fees

The District will incur trustee related costs with the issuance of its' issued bonds.

Management Fees

The District receives Management, Accounting and Administrative services as part of a Management Agreement with Governmental Management Services-Central Florida, LLC. The services include but are not limited to, recording and transcription of board meetings, administrative services, budget preparation, all financial reports, annual audits, etc.

Information Technology

Represents costs related to the District's information systems, which include but are not limited to video conferencing services, cloud storage services and servers, positive pay implementation and programming for fraud protection, accounting software, tablets for meetings, Adobe, Microsoft Office, etc.

Website Maintenance

Represents the costs associated with monitoring and maintaining the District's website created in accordance with Chapter 189, Florida Statutes. These services include site performance assessments, security and firewall maintenance, updates, document uploads, hosting and domain renewals, website backups, etc.

Postage & Delivery

The District incurs charges for mailing of Board meeting agenda packages, overnight deliveries, correspondence, etc.

<u>Insurance</u>

The District's general liability and public official's liability insurance coverages.

Printing & Binding

Printing and Binding agenda packages for board meetings, printing of computerized checks, stationary, envelopes, etc.

Legal Advertising

The District is required to advertise various notices for monthly Board meetings, public hearings, etc. in a newspaper of general circulation.

Other Current Charges

Bank charges and any other miscellaneous expenses incurred during the year.

Office Supplies

Any supplies that may need to be purchased during the fiscal year, e.g., paper, minute books, file folders, labels, paper clips, etc.

Community Development District General Fund Budget

<u>Travel Per Diem</u>

The Board of Supervisors can be reimbursed for travel expenditures related to the conducting of District business.

Dues, Licenses & Subscriptions

The District is required to pay an annual fee to the Florida Department of Economic Opportunity for \$175. This is the only expense under this category for the District.

Field Services:

Field Contingency

Represents funds allocated to expenses that the District could incur throughout the fiscal year.

SECTION V

RESOLUTION 2024-06

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT ADOPTING THE ANNUAL MEETING SCHEDULE FOR FISCAL YEAR 2024/2025; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Woodland Ranch Estates Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within the Town of Dundee, Polk County, Florida; and

WHEREAS, the District is required by Section 189.015, *Florida Statutes*, to file quarterly, semi-annually, or annually a schedule (including date, time, and location) of its regular meetings with local governing authorities; and

WHEREAS, further, in accordance with the above-referenced statute, the District shall also publish quarterly, semi-annually, or annually the District's regular meeting schedule in a newspaper of general paid circulation in the county in which the District is located; and

WHEREAS, the Board desires to adopt the Fiscal Year 2024/2025 annual meeting schedule attached as **Exhibit A**.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The Fiscal Year 2024/2025 annual meeting schedule attached hereto and incorporated by reference herein as **Exhibit A** is hereby approved and shall be published in accordance with the requirements of Florida law and also provided to applicable governing authorities.

SECTION 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 10th day of July 2024.

ATTECT

ATTEST:	COMMUNITY DEVELOPMENT DISTRICT
Secretary / Assistant Secretary	Chairperson, Board of Supervisors

Exhibit A: Fiscal Year 2024/2025 Annual Meeting Schedule

Exhibit A: 2024/2025 Annual Meeting Schedule

BOARD OF SUPERVISORS MEETING DATES WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT FISCAL YEAR 2024/2025

The Board of Supervisors of the Woodland Ranch Estates Community Development District will hold their regular meetings for Fiscal Year 2024/2025 at the Holiday Inn-Winter Haven, 200 Cypress Gardens Boulevard, Winter Haven, Florida 33880, on the 2nd Wednesday of every month at 2:00 PM unless otherwise indicated as follows:

October 9, 2024
Tuesday, November 5, 2024 @ 1:10 PM (Landowners' Meeting & Election)
November 13, 2024
December 11, 2024
January 8, 2025
February 12, 2025
March 12, 2025
April 9, 2025
May 14, 2025
June 11, 2025
July 9, 2025
August 13, 2025
September 10, 2025

The meetings are open to the public and will be conducted in accordance with the provision of Florida Law for Community Development Districts. The meetings may be continued to a date, time, and place to be specified on the record at the meeting. A copy of the agenda for these meetings may be obtained from Governmental Management Services - Central Florida, LLC, 219 E. Livingston Street, Orlando, Florida 32801 or by calling (407) 841-5524.

There may be occasions when one or more Supervisors or staff will participate by telephone. Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the District Office at (407) 841-5524 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service by dialing 7-1-1, or 1-800-955-8771 (TTY) / 1-800-955-8770 (Voice), for aid in contacting the District Office.

A person who decides to appeal any decision made at the meeting with respect to any matter considered at the meeting is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.

District Manager

SECTION VI



Memorandum

To: Board of Supervisors

From: District Management

Date: July 10, 2024

RE: HB7013 – Special Districts Performance Measures and Standards

To enhance accountability and transparency, new regulations were established for all special districts, by the Florida Legislature, during their 2024 legislative session. Starting on October 1, 2024, or by the end of the first full fiscal year after its creation (whichever comes later), each special district must establish goals and objectives for each program and activity, as well as develop performance measures and standards to assess the achievement of these goals and objectives. Additionally, by December 1 each year (initial report due on December 1, 2025), each special district is required to publish an annual report on its website, detailing the goals and objectives achieved, the performance measures and standards used, and any goals or objectives that were not achieved.

District Management has identified the following key categories to focus on for Fiscal Year 2025 and develop statutorily compliant goals for each:

- Community Communication and Engagement
- Infrastructure and Facilities Maintenance
- Financial Transparency and Accountability

Additionally, special districts must provide an annual reporting form to share with the public that reflects whether the goals & objectives were met for the year. District Management has streamlined these requirements into a single document that meets both the statutory requirements for goal/objective setting and annual reporting.

The proposed goals/objectives and the annual reporting form are attached as exhibit A to this memo. District Management recommends that the Board of Supervisors adopt these goals and objectives to maintain compliance with HB7013 and further enhance their commitment to the accountability and transparency of the District.

Exhibit A:

Goals, Objectives and Annual Reporting Form

Woodland Ranch Estates Community Development District Performance Measures/Standards & Annual Reporting Form

October 1, 2024 - September 30, 2025

1. Community Communication and Engagement

Goal 1.1: Public Meetings Compliance

Objective: Hold at least three regular Board of Supervisor meetings per year to conduct CDD related business and discuss community needs.

Measurement: Number of public board meetings held annually as evidenced by meeting minutes and legal advertisements.

Standard: A minimum of three board meetings were held during the Fiscal Year.

Achieved: Yes □ No □

Goal 1.2: Notice of Meetings Compliance

Objective: Provide public notice of each meeting in accordance with Florida Statutes, using at least two communication methods.

Measurement: Timeliness and method of meeting notices as evidenced by posting to CDD website, publishing in local newspaper and via electronic communication.

Standard: 100% of meetings were advertised in accordance with Florida Statutes, on at least two mediums (i.e., newspaper, CDD website, electronic communications).

Achieved: Yes □ No □

Goal 1.3: Access to Records Compliance

Objective: Ensure that meeting minutes and other public records are readily available and easily accessible to the public by completing monthly CDD website checks.

Measurement: Monthly website reviews will be completed to ensure meeting minutes and other public records are up to date as evidenced by District Management's records.

Standard: 100% of monthly website checks were completed by District Management.

Achieved: Yes □ No □

2. Financial Transparency and Accountability

Goal 2.1: Annual Budget Preparation

Objective: Prepare and approve the annual proposed budget by June 15 and final budget was adopted by September 30 each year.

Measurement: Proposed budget was approved by the Board before June 15 and final budget was adopted by September 30 as evidenced by meeting minutes and budget documents listed on CDD website and/or within district records.

Standard: 100% of budget approval & adoption were completed by the statutory deadlines and posted to the CDD website.

Achieved: Yes □ No □

Goal 2.2: Financial Reports

Objective: Publish to the CDD website the most recent versions of the following documents: Annual audit, current fiscal year budget with any amendments, and most recent financials within the latest agenda package.

Measurement: Annual audit, previous years' budgets, and financials are accessible to the public as evidenced by corresponding documents on the CDD's website.

Standard: CDD website contains 100% of the following information: Most recent annual audit, most recent adopted/amended fiscal year budget, and most recent agenda package with updated financials.

Achieved: Yes □ No □

Goal 2.3: Annual Financial Audit

Objective: Conduct an annual independent financial audit per statutory requirements and publish the results to the CDD website for public inspection and transmit to the State of Florida.

Measurement: Timeliness of audit completion and publication as evidenced by meeting minutes showing board approval and annual audit is available on the CDD's website and transmitted to the State of Florida.

Standard: Audit was completed by an independent auditing firm per statutory requirements and results were posted to the CDD website and transmitted to the State of Florida.

Achieved: Yes □ No □

Chair/Vice Chair: Print Name: Woodland Ranch Estates Community Development District	Date:
District Manager: Print Name: Woodland Ranch Estates Community Development District	Date:

SECTION VII

SECTION A

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

MASTER INFRASTRUCTURE PROJECT

This Agreement is by and between <u>Center State Development, LLC ("Owner")</u> and <u>Tucker Paving, Inc.</u> ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: All labor, materials, equipment, services, and documentation necessary to construct the Project defined herein. The Work shall include related services such as testing, start-up, and commissioning, all as required by the Contract Documents

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Master construction for the Master Infrastructure Project (the "Project"), including clearing and earthwork, paving, and storm drainage, per the plans titled "Woodland Ranch Estates", dated September 23, 2022.

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained <u>Hunter Engineering Inc.</u>, <u>located at 4900 Dundee Road</u>, <u>Winter Haven</u>, <u>FL 33884</u> ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by Engineer.

ARTICLE 4—CONTRACT TIMES

- 4.01 Time is of the Essence
 - A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract. The Work to be performed under this Agreement shall be commenced no later than ten (10) calendar days, including Saturdays, Sundays, and holidays, from the date of the Notice to Proceed. Project start date will be determined by the date of the pre-construction meeting as evidenced by the issuance of the Notice to Proceed and with a stipulated date for Project Completion as provided in the revised project completion schedule established at the pre-

construction meeting with the regulatory agencies with jurisdiction over the Project. The revised project completion date shall be evidenced in writing by the Parties.

4.02 Contract Times: Dates

A. The Work will be substantially complete on or before **[date]**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **[date]**.

4.03 *Contract Times: Days*

- A. The Work will be substantially complete within <u>396</u> calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within <u>441</u> calendar days after the date when the Contract Times commence to run.
- B. ALL CALENDAR DAY DURATIONS STATED ABOVE SHALL BE INCLUSIVE OF THE TIME NECESSARY FOR SHOP DRAWING PREPARATION, REVIEW, AND APPROVAL, AND PROCUREMENT, FABRICATION AND DELIVERY OF ALL MATERIALS REQUIRED FOR COMPLETION OF THE PROJECT.

4.04 Milestones

- A. Parts of the Work must be substantially completed on or before the following Milestone(s):
 - 1. Milestone 1 [event & date/days]
 - 2. Milestone 2 [event & date/days]
 - 3. Milestone 3 [event & date/days]

4.05 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. For and in recognition of specific consideration in the amount of Ten Dollars (\$10) and other valuable consideration paid to Contractor, the receipt of which is acknowledged., the Owner and Contractor agree that an assessment of actual damages as of the date of this Agreement would be uncertain, and the amount of liquidated damages set forth herein is reasonable. Accordingly, instead of requiring any such proof of actual damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
 - 1. Substantial Completion: Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 - Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.

- 3. Milestones: Contractor shall pay Owner \$[number] for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.
- 4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.
- C. Bonus: Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall pay Contractor \$[number] for each day prior to the time specified above for Substantial Completion (as duly adjusted pursuant to the Contract) that the Work is substantially complete. The maximum value of the bonus will be limited to \$[number].

4.06 Special Damages

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
 - A. For all Work other than Unit Price Work, a lump sum of \$11,412,928.81.
 - All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions. Pricing is inclusive of all sales tax. Change Orders shall be based on the unit pricing provided by the Contractor, subject to Article 11 of the General Conditions.

- B. THE LUMP SUM BID PRICE IN SECTION A ABOVE SHALL NOT BE SUBJECT TO ANY ADJUSTMENTS EXCEPT AS SPECIFICALLY SET FORTH HEREIN. CONTRACTOR ACKNOWLEDGES AND AGREES THAT CONTRACT PRICE SHALL NOT BE SUBJECT TO FLUCTUATIONS IN MARKET COSTS FOR TOOLS, MATERIALS, SUPPLIES, EQUIPMENT, FUEL, OR LABOR EXCEPT AS DESCRIBED IN ADDENDUM NO. 1.
- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
				\$	\$
				\$	\$
				\$	\$
				\$	\$
				\$	\$
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)				\$	

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$[number].
- D. For all Work, including additions or changes to the Work, payment shall be made in accordance with at-the prices stated in Contractor's Bid, attached hereto as an exhibit. Unit Pricing, as shown in the Contractor's Bid attached hereto, shall only be used in connection with pricing for change orders.
- E. The Lump Sum Bid Price and Unit Pricing provided for tools, materials, supplies, equipment, fuel or labor shall not be subject to any cost adjustment for any reason unless authorized per an addendum to this contract. Notwithstanding the above, in the event Owner requests a change in the scope of Work beyond simple extensions to existing work, Contractor and Owner shall negotiate reasonable adjustments to unit prices for such changes in scope of Work.

ARTICLE 6—PAYMENT PROCEDURES

- 6.01 Submittal and Processing of Payments
 - A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.
- 6.02 Progress Payments; Retainage
 - A. Following assignment to a governmental entity as set forth herein, Owner shall make progress payments on the basis of Contractor's Applications for Payment in a manner consistent with the Local Government Prompt Payment Act, sections 218.70 through 218.80, Florida Statutes. on or about the fordinal number, such as 5thl day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract. Five percent (5%) of the amount of each progress payment shall be withheld as retainage until final completion of the Work, acceptance of the Work by the Owner, satisfaction of all punch list requirements, and submission of all documents required under Paragraph 15.06 of the General Conditions, subject to any offsets to which the Owner is entitled. Procedures for withholding and release of retainage shall be in accordance with Florida law, including sections 218.735 and 255.078, Florida Statutes. Retainage to be reduced to 2.5% upon 50% completion at Owner's discretion.
 - Prior to Substantial Completion, progress payments will be made in an amount equal to
 the percentage indicated below but, in each case, less the aggregate of payments
 previously made and less such amounts as Owner may withhold, including but not
 limited to liquidated damages, in accordance with the Contract.
 - a. **[number]** percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. **[number]** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
 - B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to [number] percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less [number] percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

A. Upon final completion and acceptance of the Work ("Completion of Work"), in accordance with Paragraph 15.05 and 15.06 of the General Conditions, and subject to final acceptance by Polk County and/or the local utility provider, as applicable, Owner shall pay the remainder of the Contract Price as recommended by the Engineer and in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 Interest

A. <u>Upon assignment to a unit of government</u>, <u>all payments due and not made within the time prescribed by Section 218.735</u>, *Florida Statutes*, shall bear interest from thirty (30) days after the due date at the rate of two percent (2%) per month on the unpaid balance in accordance with Section 218.74, *Florida Statutes*. All amounts not paid when due will bear interest at the rate of **[number]** percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 Contents

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement as modified herein.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - c. Bid bond (together with power of attorney)
 - 3. General Conditions as modified therein.
 - 4. Supplementary Conditions <u>Relating to Insurance Requirements, Subsurface Conditions,</u> and Hazardous Conditions.
 - 5. <u>Project Manual, including but not limited to Specifications as listed in the table of contents of the Project Manual (copy of list attached).</u>
 - 6. Drawings (not attached but incorporated by reference) consisting of [number] sheets with each sheet bearing the following general title: [title on Drawings].
 - 7. <u>Sheet Index of Drawings, as listed on the plans titled "Woodland Ranch Estates," dated September 23, 2022.</u>
 - 8. Contract Addenda (Addendum No. 1, inclusive).
 - 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (Exhibit A)
 - b. Bid Schedule

c. Bid Addendum(s), if any

d. Technical Specifications as set forth in the Supplemental Conditions

- 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - 1. Contractor has examined and carefully studied the Contract Documents, including Addenda, if any.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, <u>if any</u>, with respect to the Technical Data in such reports and drawings.
 - 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 - 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect

- to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
- 7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- 8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- 9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- 10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
- 12. Contractor is financially solvent, able to pay its debts as they mature and possesses sufficient working capital (subject to payments by Owner required under this Agreement) to complete the Work required to be performed of it under this Contract.
- 13. Contractor is able to furnish (directly or by subcontract or through vendors) any plant, tools, materials, supplies, equipment and labor necessary to complete the services required of Contractor under this Contract and Contractor has sufficient experience and competence to perform the Work under the Contract.
- 14. Contractor is authorized to do business in the State of Florida and is properly licensed (to the extent required by law) by all necessary governmental authorities having jurisdiction over the Work.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 - "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

- 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
- 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 Standard General Conditions

A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), and/or in the Supplementary Conditions.

ARTICLE 9—MISCELLANEOUS

9.01 *Terms*

A. Terms used in the Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions unless otherwise stated herein.

9.02 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.03 Assignment of Warranties

A. Contractor shall assign to Owner all warranties extended to Contractor by material suppliers and subcontractors. If an assignment of warranty requires the material supplier and/or subcontractor to consent to same, then Contractor shall secure the material supplier's and/or subcontractor's consent to assign said warranties to Owner.

9.04 *Construction Defects*

A. CLAIMS FOR CONSTRUCTION DEFECTS ARE <u>NOT</u> SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

9.05 Restriction on Removal of Fill Dirt from Work Site

A. Contractor acknowledges that all suitable soil/fill material shall remain on-site. Fill material shall not be removed from the Project site without the written consent of the Owner.

9.06 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

9.07 Assignment of Contract

- A. It is the intent of the Owner that this Agreement will be assigned to the Woodland Ranch Estates Community Development District ("District"), a local unit of special purpose government. Upon assignment, Sections 9.08 through 9.12 shall apply. In addition, any requirements or provisions of this Agreement, including those contained in the General Conditions or Supplementary Conditions, or any other provision regarding public construction projects, payment and performance bonds, or the direct purchase of materials as provided herein, shall be applicable upon assignment.
- B. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.08 Public Records

A. The Contractor understands and agrees that all documents of any kind provided to the District in connection with this Contract may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Contractor acknowledges that the designated public records custodian for the District is **Jill Burns** ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor shall:

- 1) keep and maintain public records required by the District to perform the service;
- 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes;
- 3) ensure that public records which are exempt or confidential, and exempt from public records disclosure requirements, are not disclosed except as authorized by law for the duration of the contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the District; and
- 4) upon completion of the contract, transfer to the District, at no cost, all public records in Contractor's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Contractor, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District in a format that is compatible with Microsoft Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 219 EAST LIVINGSTON STREET, ORLANDO, FLORIDA 32801, TELEPHONE: (407) 841-5524, FAX: (407) 839-1526, OR EMAIL: RECORDREQUEST@GMSCFL.COM.

9.09 Public Entity Crimes

A. Pursuant to Section 287.133(3)(a), *Florida Statutes*:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY

TWO for a period of 36 months following the date of being placed on the convicted vendor list.

Contractor represents that in entering into this Contract, the Contractor has not been placed on the convicted vendor list within the last 36 months and, in the event that the Contractor is placed on the convicted vendor list, the Contractor shall immediately notify the Owner whereupon this Contract may be terminated by the Owner.

9.10 Scrutinized Companies

Contractor represents that in entering into this Contract, neither it nor any of its officers, directors, executives, partners, shareholders, members, or agents is on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to Sections 215.4725 and 215.473, Florida Statutes, and in the event such status changes, Contractor shall immediately notify Owner. If Contractor is found to have submitted a false statement, has been placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, or is now or in the future on the Scrutinized Companies that Boycott Israel List, or engaged in a boycott of Israel, the Owner may immediately terminate this Contract.

9.11 *E-Verify*.

The Contractor shall comply with and perform all provisions of Section 448.095, *Florida Statutes*. Accordingly, as a condition precedent to entering into this Agreement, Contractor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees.

If the Contractor anticipates entering into agreements with a subcontractor for the Work, Contractor will not enter into the subcontractor agreement without first receiving an affidavit from the subcontractor regarding compliance with Section 448.095 and stating that the subcontractor has registered with and uses the E-Verify system and does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of the agreement and provide a copy to the Owner upon request. Any party may terminate this Agreement or any subcontract hereunder if there is a good faith belief on the part of the terminating party that a contracting party has knowingly violated Section 448.09(1), Florida Statutes. Upon such termination, Contractor shall be liable for any additional costs incurred by Owner as a result of the termination.

In the event that the Owner has a good faith belief that a subcontractor has violated Section 448.095, but the Contractor has otherwise complied with its obligations hereunder, the Owner shall promptly notify the Contractor. The Contractor agrees to immediately terminate the agreement with the subcontractor upon notice from the Owner.

9.12 Direct Purchase of Materials

A. Upon assignment of this Contract to the District, Owner shall be a governmental entity exempt from Florida sales and use tax, and will provide Contractor with a copy of its Consumer Exemption Certificate, and the provisions of this Section 9.12 shall apply.

Owner may elect to implement a direct purchase arrangement whereby Owner will directly acquire certain materials ("Direct Purchase Materials") necessary for the

Page 12 of 15

- completion of the Work directly from the suppliers to take advantage of Owner's tax-exempt status.
- B. Within 10 days of the issuance of the Notice to Proceed or other written authorization for Work, Owner shall provide Contractor with a list of materials that will be treated as Direct Purchase Materials.
- C. Owner shall issue purchase orders directly to suppliers of Direct Purchase Materials. Such purchase orders shall include Owner's consumer certificate of exemption number and shall require that the supplier provide the required shipping and handling insurance and provide for delivery with title and risk of loss transferring upon delivery at the jobsite and after acceptance by Owner. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the Owner and if the original contract contemplated sale of materials and installation by same person, the change order needs to reflect sale of materials and installation by different legal entities.
- 1. Owner will be entitled to a reduction in the Lump Sum Bid amount provided in Section 5.01.A. in an amount equal to the actual Unit Cost of all Direct Purchased Materials, together with the applicable sales tax related to such Unit Cost included as part of Contractor's bid.
- D. Owner shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and furnish a copy of same to the Contractor. Each Certificate of Entitlement must have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax-exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of delivery by the vendor.
- E. Upon delivery of the Direct Purchase Materials to the jobsite, the Owner, through Contractor as its agent, shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, Owner shall accept and take title to the Direct Purchase Materials through its agent, which is Contractor.
- F. Suppliers shall issue invoices directly to Owner. Owner shall process invoices and issue payment directly to the suppliers.
- G. Upon acceptance of Direct Purchase Materials, Owner shall assume risk of loss of same until they are incorporated into the Project. Contractor, as Owner's agent, shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products as required under the Contract Documents. All warranties provided by Contractor as part of Contract shall apply to all Direct Purchase Materials, as though Contractor had purchased the Direct Purchase Materials.

Page 13 of 15

9.12 Foreign Influence

<u>Contractor understands that under Section 286.101, Florida Statutes, Contractor must disclose any current or prior interest, any contract with, or any grant or gift form a Foreign country of concern as that term is defined within the above referenced statute.</u>

[Signatures on following page]

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

Owner: Center State Development, LLC

This Agreement will be effective on May 20, 2024 (which is the Effective Date of the Contract).

Contractor: Tucker Paving, Inc.

(typed or printed name of organization)	(typed or printed name of organization)
Ву:	By:
(individual's signature)	(individual's signature)
Date: 5/20/24	Date: 5-23-24
(date signed)	(date signed)
Name: Harold R. Baxter	Name: Patriul Braisted
(typed or printed)	(typed or Grinted)
Title: Manager	Title:
(typed or printed)	(typed or printed) (If [Type of Entity] is a corporation, a partnership, or a joint
C 11 1	venture, attach evidence of authority to sign.)
Attest: 7 South	Attest: Caleb Magrand (individual's signature)
(individual's signature)	(individual's signature)
Title: Brest Ellion	Title: PM
(typed or printed)	(typed or printed)
Address for giving notices:	Address for giving notices:
4900 Dundee Rd.	
Winter Haven, FL 33884	
Designated Representative:	Designated Representative:
Name: Brest Elliott	Name:
(typed or printed)	(typed or printed)
Title: CPO	Title:
(typed or printed)	(typed or printed)
Address:	Address:
Phone:	Phone:
Email:	Email:
US France of Franks I in a constant of the state of	License No.:
(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body,	(where applicable)
attach evidence of authority to sign and resolution or	State: Florida
other documents authorizing execution of this Agreement.)	



STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

MASTER INFRASTRUCTURE PROJECT

TABLE OF CONTENTS

		Page
Article 1	—Definitions and Terminology	1
1.01	Defined Terms	1
1.02	Terminology	6
Article 2	—Preliminary Matters	7
2.01	Delivery of Performance and Payment Bonds; Evidence of Insurance	7
2.02	Copies of Documents	8
2.03	Before Starting Construction	8
2.04	Preconstruction Conference; Designation of Authorized Representatives	8
2.05	Acceptance of Schedules	9
2.06	Electronic Transmittals	9
Article 3	—Contract Documents: Intent, Requirements, Reuse	10
3.01	Intent	10
3.02	Reference Standards	10
3.03	Reporting and Resolving Discrepancies	11
3.04	Requirements of the Contract Documents	11
3.05	Reuse of Documents	12
Article 4	—Commencement and Progress of the Work	12
4.01	Commencement of Contract Times; Notice to Proceed	12
4.02	Starting the Work	12
4.03	Reference Points	13
4.04	Progress Schedule	13
4.05	Delays in Contractor's Progress	13
Article 5	—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions	16
5.01	Availability of Lands	16
5.02	Use of Site and Other Areas	16

5.03	Subsurface and Physical Conditions	17
5.04	Differing Subsurface or Physical Conditions	18
5.05	Underground Facilities	20
5.06	Hazardous Environmental Conditions at Site	22
Article 6	—Bonds and Insurance	25
6.01	Performance, Payment, and Other Bonds	25
6.02	Insurance—General Provisions	25
6.03	Contractor's Insurance	27
6.04	Builder's Risk and Other Property Insurance	28
6.05	Property Losses; Subrogation	29
6.06	Receipt and Application of Property Insurance Proceeds	30
Article 7	—Contractor's Responsibilities	31
7.01	Contractor's Means and Methods of Construction	31
7.02	Supervision and Superintendence	31
7.03	Labor; Working Hours	31
7.04	Services, Materials, and Equipment	32
7.05	"Or Equals"	32
7.06	Substitutes	33
7.07	Concerning Subcontractors and Suppliers	35
7.08	Patent Fees and Royalties	36
7.09	Permits	37
7.10	Taxes	37
7.11	Laws and Regulations	37
7.12	Record Documents	38
7.13	Safety and Protection	38
7.14	Hazard Communication Programs	39
7.15	Emergencies	39
7.16	Submittals	39
7.17	Contractor's General Warranty and Guarantee	42
7.18	Indemnification	43
7.19	Delegation of Professional Design Services	44
Article 8	—Other Work at the Site	45
8.01	Other Work	45

8.	02	Coordination	46
8.	03	Legal Relationships	46
Artic	le 9-	Owner's Responsibilities	47
9.	01	Communications to Contractor	47
9.	02	Replacement of Engineer	47
9.	03	Furnish Data	47
9.	04	Pay When Due	48
9.	05	Lands and Easements; Reports, Tests, and Drawings	48
9.	06	Insurance	48
9.	07	Change Orders	48
9.	80	Inspections, Tests, and Approvals	48
9.	09	Limitations on Owner's Responsibilities	48
9.	10	Undisclosed Hazardous Environmental Condition	48
9.	11	Evidence of Financial Arrangements	48
9.	12	Safety Programs	48
Artic	le 10	D—Engineer's Status During Construction	49
10	0.01	Owner's Representative	49
10	0.02	Visits to Site	49
10	0.03	Resident Project Representative	49
10	0.04	Engineer's Authority	49
10	0.05	Determinations for Unit Price Work	50
10	0.06	Decisions on Requirements of Contract Documents and Acceptability of Work	50
10	0.07	Limitations on Engineer's Authority and Responsibilities	50
10	0.08	Compliance with Safety Program	50
Artic	le 11	—Changes to the Contract	51
11	1.01	Amending and Supplementing the Contract	51
11	1.02	Change Orders	51
11	1.03	Work Change Directives	51
11	1.04	Field Orders	52
11	1.05	Owner-Authorized Changes in the Work	52
11	L.06	Unauthorized Changes in the Work	52
11	L.07	Change of Contract Price	53
11	1.08	Change of Contract Times	54

11.09	Change Proposals	54
11.10	Notification to Surety	
Article 12-	•	
12.01	Claims	55
Article 13-	-Cost of the Work; Allowances; Unit Price Work	57
13.01	Cost of the Work	57
13.02	Allowances	60
13.03	Unit Price Work	61
Article 14-	-Tests and Inspections; Correction, Removal, or Acceptance of Defective Work	62
14.01	Access to Work	62
14.02	Tests, Inspections, and Approvals	62
14.03	Defective Work	63
14.04	Acceptance of Defective Work	63
14.05	Uncovering Work	64
14.06	Owner May Stop the Work	64
14.07	Owner May Correct Defective Work	64
Article 15-	-Payments to Contractor; Set-Offs; Completion; Correction Period	65
15.01	Progress Payments	65
15.02	Contractor's Warranty of Title	68
15.03	Substantial Completion	68
15.04	Partial Use or Occupancy	69
15.05	Final Inspection	70
15.06	Final Payment	70
15.07	Waiver of Claims	72
15.08	Correction Period	72
Article 16-	-Suspension of Work and Termination	73
16.01	Owner May Suspend Work	73
16.02	Owner May Terminate for Cause	73
16.03	Owner May Terminate for Convenience	75
16.04	Contractor May Stop Work or Terminate	75
Article 17-	-Final Resolution of Disputes	76
17.01	Methods and Procedures	76
Article 18-	-Miscellaneous	77

18.01	Giving Notice	77
18.02	Computation of Times	77
18.03	Cumulative Remedies	77
18.04	Limitation of Damages	77
18.05	No Waiver	77
18.06	Survival of Obligations	77
18.07	Controlling Law	77
18.08	Assignment of Contract	78
18.09	Successors and Assigns	78
18.10	Headings	78
18.11	Sovereign Immunity	77
18.12	No Third-Party Beneficiaries	77

STANDARD GENERAL CONDITIONS

OF THE CONSTRUCTION CONTRACT

MASTER INFRASTRUCTURE PROJECT

DEFINITIONS AND TERMINOLOGY

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
 - Addenda—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 - 2. Agreement—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 - 3. Application for Payment—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 - 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 - 5. Bidder—An individual or entity that submits a Bid to Owner.
 - 6. Bidding Documents—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 - 7. Bidding Requirements—The Advertisement or invitation to bid, the project manual and any documents included or referenced therein, including but not limited to Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 - 8. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 - 9. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the

requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. Claim

- a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
- c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
- d. A demand for money or services by a third party is not a Claim.
- 11. Constituent of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, chemical, element, compound, solution, mixture, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, chemical, element, compound, solution, mixture, or material.
- 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
- 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
- 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
- 15. Contract Times—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) Completion of Work See Paragraph 15.06 (D) for definition.
- 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
- 17. Cost of the Work—See Paragraph 13.01 for definition.

- 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
- 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
- 20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
- 21. Electronic Means—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
- 22. Engineer—The individual or entity named as such in the Agreement.
- 23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
- 24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
 - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
- 25. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction. Such definitions shall further include, where the context reasonably allows, compliance with any applicable permits and/or other similar approvals issued by governmental bodies, agencies, and authorities.
- 26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
- 27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.

- 28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
- 29. *Notice to Proceed*—A written notice by Owner <u>or Engineer</u> to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
- 30. Owner—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract. Upon assignment to the Woodland Ranch Estates Community Development District, the Owner may also be referred to as the "District."
- 31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
- 32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
- 33. Resident Project Representative —The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
- 34. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
- 35. Schedule of Submittals—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
- 36. Schedule of Values—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
- 37. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
- 38. Site—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
- 39. Specifications—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
- 40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
- 41. Submittal—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a

Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.

- 42. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be lawfully utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work. Notwithstanding anything to the contrary herein, "Substantial Completion" shall be considered to be on the date which all improvements indicated in the construction plans, specifications, and other Contact Documents have been installed and constructed with respect to each portion of the work and the Owner is able to utilize each portion of the Work set forth in the Contract Documents for the intended purpose. Also notwithstanding anything to the contrary contained herein, Contractor shall also be responsible for providing required testing, as-built plans, surveys, certifications, and other documentation associated with obtaining the final inspections and applicable written approvals and acceptances from all governmental agencies with jurisdiction with respect to each portion of the Work, and in connection therewith, Owner and Engineer shall comply with all of its obligations required by the issuing authority in order to enable the Contractor to obtain such approvals, acceptances, and certifications.
- 43. Successful Bidder—The Bidder to which the Owner makes an award of contract.
- 44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
- 45. Supplier—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

46. Technical Data

- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
- b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs,

- recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
- c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
- 47. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
- 48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
- 49. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- 50. Work Change Directive—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
- 51. Construction Manager any individual, entity or firm retained by the Owner to assist the Engineer with the administration of managing, overseeing and processing construction related activities.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. Intent of Certain Terms or Adjectives: The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance

- of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. Day: The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - 1. does not conform to the Contract Documents;
 - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - 3. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).

E. Furnish, Install, Perform, Provide

- 1. The word "furnish," when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
- 2. The word "install," when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
- 3. The words "perform" or "provide," when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
- 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Contract Price or Contract Times: References to a change in "Contract Price or Contract Times" or "Contract Times or Contract Price" or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term "or both" is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

- 2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance
 - A. Performance and Payment Bonds: Wwhen Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).

- B. Evidence of Contractor's Insurance: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. Evidence of Owner's Insurance: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 Copies of Documents

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 Before Starting Construction

- A. *Preliminary Schedules*: Within <u>10–3</u> days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

<u>Such schedules shall be consistent with the documents provided to the Owner as part of the Contractor's Bid.</u>

2.04 Preconstruction Conference; Designation of Authorized Representatives

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals,

- processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 Acceptance of Schedules

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 - The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - Contractor's Schedule of Values will be acceptable to Engineer as to form and substance
 if it provides a reasonable allocation of the Contract Price to the component parts of the
 Work.
 - 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

<u>Such schedules shall be consistent with the documents provided to the Owner as part of</u> the Contractor's Bid.

2.06 Electronic Transmittals

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Intent

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - any contractual relationship between Owner or Engineer <u>or Construction Manager</u> and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity;
 - any obligation on the part of Owner or Engineer or Construction Manager to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 Reference Standards

- A. Standards Specifications, Codes, Laws and Regulations
 - Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the

performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

- 1. Contractor's Verification of Figures and Field Measurements: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
- 2. Contractor's Review of Contract Documents: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
- 3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. Resolving Discrepancies

- 1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Requirements of the Contract Documents

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as

- possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 Reuse of Documents

- A. Contractor and its Subcontractors and Suppliers shall not:
 - have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

- 4.01 Commencement of Contract Times; Notice to Proceed
 - A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. No Work shall be performed before the issuance of a Notice to Proceed. Notwithstanding the foregoing, to the extent the Contractor begins Work without a Notice to Proceed, such Work shall be deemed to be subject to the requirements of this Agreement. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 Starting the Work

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 Reference Points

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 Progress Schedule

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 Delays in Contractor's Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to only the following:
 - 1. Severe and unavoidable <u>acts of God or natural catastrophes</u> such as fires, floods, epidemics, <u>tropical storms</u>, <u>hurricanes</u>, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work

at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and

4. Acts of war or terrorism.

Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Times under this paragraph within 15 days of the damaging, delaying, disrupting, or interfering event, or such claim shall be waived. Contractor shall be required to prove that any abnormal weather conditions are in excess of normal rainfall amounts or other normal weather conditions, and must provide such documentation of unusually severe weather as the Engineer deems reasonably necessary. Normal seasonal adverse weather typical for the area, including heavy rain not associated with a named tropical storm or hurricane shall not be deemed as causing any delays for the Project.

In no event shall Owner or Engineer be liable to Contractor, any subcontractor, any supplier, or any other person or organization, or to any surety or employee or any agent of them, for damages, including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs, arising out of or resulting from:

- 1. delays caused by or within the control of Contractor (or Subcontractor or Supplier); or
- 2. delays beyond the control of both Owner and Contractor, including, but not limited to, fires, floods, epidemics, or acts or neglect by utility owners or other contractors performing other work;

Nor shall Owner or Engineer of each of them be liable to Contractor for any claims, costs, losses or damages sustained by Contractor on or in connection with any other project or anticipated project.

Except for an adjustment to the Contract Times, the Contractor shall not be entitled to and hereby waives any and all damages that it may suffer by reason of delay or for any Act of God, and waives all damages that it may suffer by reason of such delay including but not limited to lost profits, overhead, and other consequential damages. No payment of any claim for damages shall be made to the Contractor as compensation for damages for any delays or hindrances that are avoidable by Contractor.

- 3. where the delivery of materials is delayed, through no fault of the Contractor, as a result of the shortage or unavailability of the material, Contractor shall not be liable for any additional cost or damages associated with such delays, and the Contractor shall receive an equitable adjustment to the contract time. In no event shall such procurement delays trigger liquidated damages.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited <u>and</u> conditioned as follows:
 - 1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 - 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by

- Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
- 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- 4. The Owner, in its sole and absolute discretion, may additionally direct that the Project be delivered in multiple phases rather than all at once. At such time the Contractor may provide any additional impacts to the schedule and Contract to the Owner to review at its discretion.
- 5. <u>Adjustments of Contract Price are subject to the limitations of Article 5 of the Construction Contract.</u>
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
 - 1. The circumstances that form the basis for the requested adjustment;
 - 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 - 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 - 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 - 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work. Such supporting documentation shall include, where appropriate, documentation of abnormal weather conditions and an explanation of their impact on Contract Price and/or Contract Times.

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 Availability of Lands

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 Use of Site and Other Areas

- A. Limitation on Use of Site and Other Areas
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify, defend and hold harmless Indemnitees (defined in Paragraph 7.18) Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all liabilities, suits, liens, demands, costs, losses, interest, expenses, penalties, fines, judgments, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution fees and costs) whether monetary or otherwise, arising, in whole or in part, out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against

Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's <u>negligent</u>, <u>reckless or intentionally wrongful</u> performance of the Work, or because of other <u>negligent</u>, <u>reckless or intentionally wrongful</u> actions or conduct of the Contractor or those for which Contractor is responsible.

- B. Removal of Debris During Performance of the Work: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. Cleaning: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, rubbish, debris, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. Loading of Structures: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 Subsurface and Physical Conditions

- A. Reports and Drawings: The Supplementary Conditions identify:
 - Those reports <u>known to Owner</u> of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data <u>from which the Engineer prepared the</u> Contract Drawings and Specifications;
 - Those drawings of existing physical conditions at or adjacent to the Site, including those
 drawings depicting existing surface or subsurface structures at or adjacent to the Site
 (except Underground Facilities), that contain Technical Data from which the Engineer
 prepared the Contract Drawings and Specifications; and
 - 3. Technical Data contained in such reports and drawings, if any.
- B. Underground Facilities: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. <u>No Reliance by Contractor on Technical Data</u>: Contractor may <u>not</u> rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. <u>Instead, while the Technical Data is believed to be reliable, the Technical Data was prepared for Owner's benefit by third parties and accordingly, Owner cannot guarantee the quantity, quality, completeness or accuracy of that information.</u>

- D. Limitations of Other Data and Documents: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
 - 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 - 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.
 - 5. Contractor expressly acknowledges that soil conditions may vary widely across the Site, and Contractor takes responsibility for any and all issues arising from unsuitable soils, including but not limited to, varying soil conditions, etc. that may make it more difficult to install the repairs or otherwise conduct the Work. Furthermore, no additional costs will be charged by Contractor for matters associated with unsuitable and/or varying soils, except that the Contractor may apply for a change order where authorized by the Engineer and with respect to "templating."
 - 6. Contractor warrants it has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecuting of the Work. Contractor further warrants that the Contract Price is just and reasonable compensation for all the Work, including all foreseen and unforeseen risks, hazards, and difficulties in connection therewith, including any concealed conditions encountered in the performance of the Work below the surface of the ground at variance with conditions indicated by the Contract Documents or other Bidding Documents and Bidding Requirements furnished to the Contractor for its information.
- 5.04 Differing Subsurface or Physical Conditions
 - A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
 - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
 - 2. is of such a nature as to require a change in the Drawings or Specifications;
 - 3. differs materially from that shown or indicated in the Contract Documents; or
 - 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. Engineer's Review: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. Owner's Statement to Contractor Regarding Site Condition: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. Early Resumption of Work: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. Possible Price and Times Adjustments

- Contractor shall be entitled to an equitable adjustment in Contract Price or Contract
 Times, to the extent that the existence of a differing subsurface or physical condition, or
 any related delay, disruption, or interference, causes an increase or decrease in
 Contractor's cost of, or time required for, performance of the Work; subject, however,
 to the following:
 - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. Underground Facilities; Hazardous Environmental Conditions: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 Underground Facilities

- A. Contractor's Responsibilities: Owner and Engineer do not warrant or guarantee the accuracy or completeness of any information or data regarding underground facilities provided by others. Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for, without additional compensation from the Owner:
 - 1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - complying with applicable state and local utility damage prevention Laws and Regulations, including but not limited to notification of and cooperation with utility companies and agencies when the Contractor's operations are close to existing facilities in order to provide time for the utilities to stake the location of their existing facilities. This coordination effort shall be done in compliance with the latest revision of Chapter 556, Florida Statutes, the "Underground Facility Damage Prevention and Safety Act";
 - locating or verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 - 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and

- 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. Notice by Contractor: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. Engineer's Review: Engineer will:
 - 1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 - identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 - obtain any pertinent cost or schedule information from Contractor; determine the
 extent, if any, to which a change is required in the Drawings or Specifications to reflect
 and document the consequences of the existence or location of the Underground
 Facility; and
 - 4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
 - During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. Owner's Statement to Contractor Regarding Underground Facility: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. Early Resumption of Work: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. Possible Price and Times Adjustments

- 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03, <u>and the limitations of Article 5 of the Contract</u>;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
- If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
- 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
- 4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 Hazardous Environmental Conditions at Site

- A. Reports and Drawings: The Supplementary Conditions identify:
 - those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site, if any;
 - 2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site, if any; and
 - 3. Technical Data contained in such reports and drawings.
- B. <u>No Reliance by Contractor on Technical Data Authorized</u>: Contractor may <u>not</u> rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. <u>Instead</u>, while the Technical Data is believed to be reliable, the Technical Data was prepared for the Owner's benefit by third parties and accordingly, the Owner cannot guarantee the quantity, quality,

completeness or accuracy of that information. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

- the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
- 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
- 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern. Neither Contractor nor any of its successors, assigns, agents, employees, contractors, subcontractors, materialmen, officers, invitees, and representatives shall store, place, generate, manufacture, refine, handle, or locate on the Site a Constituent of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, <u>defend</u> and hold harmless <u>Indemnitees</u> Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, <u>liabilities</u>, suits, <u>liens</u>, demands, costs, losses, <u>interest</u>, expenses, <u>penalties</u>, fines, <u>judgments</u>, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution <u>fees and</u> costs) arising out of or relating to the <u>wholly or partially negligent</u>, <u>reckless</u>, <u>or intentionally wrongful</u> failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, <u>including without limitation</u>, <u>Contractor's successors</u>, <u>assigns</u>, <u>agents</u>, <u>employees</u>, <u>contractors</u>, <u>subcontractors</u>, <u>materialmen</u>, <u>officers</u>, <u>invitees</u>, and <u>representatives</u>, or to a Hazardous Environmental Condition created <u>in whole or in part by</u> Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 Performance, Payment, and Other Bonds [Reserved]

- A. <u>Upon assignment to the District</u>, Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year (for the payment bond) and two years (for the performance bond) after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 Insurance—General Provisions

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized

- in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Prior to commencing the Work and entering any lands upon which the Work shall be performed, Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, and subject to Florida's Public Records Law, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on

- Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
- 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 30 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.
- O. The fact that an entity or individual is named as an additional insured on a particular insurance policy required under this Contract is not intended to constitute a waiver of any rights of any kind, including subrogation rights, claims for indemnification or any other rights or claims.

6.03 Contractor's Insurance

- A. Required Insurance: Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions*: The policies of insurance required by this Paragraph 6.03 as supplemented must:
 - 1. include at least the specific coverages required;

- be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
- remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
- 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
- 5. include all necessary endorsements to support the stated requirements.
- C. Additional Insureds: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
 - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 - 2. include coverage for the respective <u>supervisors</u>, <u>professional staff</u>, officers, directors, members, partners, employees, <u>agents</u>, <u>subcontractors</u>, and consultants of all such additional insureds:
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 - 4. not seek contribution from insurance maintained by the additional insured; and
 - 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.
- 6.04 Builder's Risk and Other Property Insurance
 - A. Builder's Risk: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
 - B. Property Insurance for Facilities of Owner Where Work Will Occur: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.

- C. Property Insurance for Substantially Complete Facilities: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. Partial Occupancy or Use by Owner: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. Insurance of Other Property; Additional Insurance: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 Property Losses; Subrogation

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive waives all rights against each other and the respective Polk County, Owner and its officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive waives all such rights against Engineer and/or Construction Manager, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after

Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

- Owner waives all rights against Contractor, Subcontractors, and Engineer, and the
 officers, directors, members, partners, employees, agents, consultants and
 subcontractors of each and any of them, for all losses and damages caused by, arising
 out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such
 policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 Receipt and Application of Property Insurance Proceeds

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 Contractor's Means and Methods of Construction

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 Supervision and Superintendence

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 Labor; Working Hours

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will-may be performed during regular working hours, Monday through Friday.—Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.
 - The Contractor shall be responsible, whether previously scheduled or not, for the payment of Owner's cost of overtime inspection outside of the working hours described above. The Contractor will be required to pay for overtime inspection services on unscheduled work, work which is delayed by the Contractor's suppliers or subcontractors and any other work performed for the convenience of the Contractor as he deems necessary to meet the schedule.

7.04 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 "Or Equals"

- A. Contractor's Request; Governing Criteria: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 2) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 4) has a proven record of performance and availability of responsive service; and
 - 5) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and

- 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. Engineer's Evaluation and Determination: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. Effect of Engineer's Determination: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. Treatment as a Substitution Request: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 Substitutes

- A. Contractor's Request; Governing Criteria: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
 - Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.

b. will state:

- 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
- 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
- 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

- 1) all variations of the proposed substitute item from the item specified; and
- 2) available engineering, sales, maintenance, repair, and replacement services.
- d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. Engineer's Evaluation and Determination: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. Reimbursement of Engineer's Cost: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. Effect of Engineer's Determination: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.

- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 Patent Fees and Royalties

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, <u>defend</u> and hold harmless <u>Indemnitees</u> Owner and <u>Engineer</u>, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, <u>liabilities</u>, <u>suits</u>, <u>liens</u>, <u>demands</u>, costs, losses, <u>interest</u>, <u>expenses</u>, <u>penalties</u>, <u>fines</u>, <u>judgments</u>, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution <u>fees or costs</u>) <u>whether monetary or otherwise</u>, arising, in whole or <u>in part</u>, out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents, <u>to the extent such infringement is caused in whole or in part by the negligent, reckless, or intentionally wrongful actions of the Contractor or those for which Contractor is responsible including without limitation, Contractor's successors, assigns, agents, employees, contractors, subcontractors, materialmen, officers, invitees, and representatives.</u>

7.09 Permits

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all <u>applicable</u> construction permits, <u>and</u> licenses, <u>and certificates of occupancy</u>. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges <u>and fees for permanent</u> of utility owners for connections for providing permanent service to the Work. Contractor shall pay for any temporary utility connections fees and costs for the Work, including without limitation water and electrical meters (if applicable), installation fees, electrical inspection fees, and temporary systems including generators, pumps, and service lines, if applicable. Contractor shall additionally provide all signage required by applicable permits and governmental authorities.
- B. Owner and Contractor acknowledge and agree that Owner may turn over all or a portion of the Work upon completion to a city, county, or other unit of local government for ownership and maintenance. To the extent that Owner intends to turn over any portion of the Work to another governmental entity for ownership or other purposes, Contractor agrees at its sole expense to take all actions necessary (including but not limited to providing all warranties and close-out documents required by the governmental entity even if such requirements are beyond what is required herein) to ensure that the recipient governmental entity accepts the Work.

7.10 Taxes

A. Contractor shall pay all sales, consumer, use, and other similar taxes <u>and assessments</u> required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 Laws and Regulations

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor <u>or those for whom Contractor is responsible</u> performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify, <u>defend</u>, and hold harmless <u>Indemnitees</u> <u>Owner and Engineer</u>, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, <u>liabilities</u>, <u>suits</u>, <u>liens</u>, <u>demands</u>, costs, losses, <u>interest</u>, <u>expenses</u>, <u>penalties</u>, <u>fines</u>, <u>judgments</u>, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution <u>fees or</u> costs) <u>whether monetary or otherwise</u> arising, in whole or in part, out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of

performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.12 Record Documents

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 Safety and Protection

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or

- loss; and shall erect and maintain all necessary safeguards for such safety and protection. Among other requirements, the Contractor or Subcontractor performing trench excavation work on the Project shall comply with the applicable trench safety standards.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 Hazard Communication Programs

A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 Emergencies

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 Submittals

- A. Shop Drawing and Sample Requirements
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

- b. determine and verify:
 - 3) 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 4) 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 5) 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
- c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
- 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. Submittal Procedures for Shop Drawings and Samples: Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
 - 1. Shop Drawings
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. Samples

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
- Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Engineer's Review of Shop Drawings and Samples

- Engineer will provide timely review of Shop Drawings and Samples in accordance with
 the accepted Schedule of Submittals. Engineer's review and approval will be only to
 determine if the items covered by the Submittals will, after installation or incorporation
 in the Work, comply with the requirements of the Contract Documents, and be
 compatible with the design concept of the completed Project as a functioning whole as
 indicated by the Contract Documents.
- 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
- 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- 4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
- 5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
- 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
- 7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
- 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

- Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
- 2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
- 3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and

Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

- E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs
 - 1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
 - 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03. 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.
- 7.17 Contractor's General Warranty and Guarantee
 - A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
 - B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
 - 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 - Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
 - C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.

- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
 - Observations by Engineer;
 - 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. Use or occupancy of the Work or any part thereof by Owner;
 - 5. Any review and approval of a Shop Drawing or Sample submittal;
 - 6. The issuance of a notice of acceptability by Engineer or other similar acceptance by Owner;
 - 7. The end of the correction period established in Paragraph 15.08;
 - 8. Any inspection, test, or approval by others; or
 - 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.
- F. Contractor shall assign to Owner all warranties extended to Contractor by material suppliers and subcontractors. If an assignment of warranty requires the material supplier or subcontractor to consent to same, then Contractor shall secure the material supplier's or subcontractor's consent to assign said warranties to Owner.
- G. The warranties provided in this Contract shall be in addition to and not in limitation of any other warranty or remedy required by law.

7.18 Indemnification

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify, hold harmless, and defend Owner, Engineer, Woodland Ranch Estates LLC, Woodland Ranch Estates 3, LLC, and their respective members, parents, partners, subsidiaries, affiliates, officers, directors, supervisors, managers, attorneys, engineers, consultants, agents, subcontractors and employees, of each and any of all of the foregoing entities and individuals (together, "Indemnitees") from all claims, liabilities, damages, losses, fees, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused, in part or in whole, by the negligence, recklessness, or intentionally wrongful misconduct of the Contractor, or any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed or used by any of them to perform any of the Work.

To the extent required by Florida law to make the provisions of any indemnification, defense or hold harmless provision of this Contract enforceable (and otherwise this sentence does not apply), such indemnification, hold harmless and defense obligation shall be \$10,000,000 (or the amount of any applicable insurance coverage, if such amount is greater), the amount of which bears a reasonable commercial relationship to the Contract and was part of the project specifications or bid documents. In the event that any indemnification, defense or hold harmless provision of this Contract is determined to be unenforceable, the provision shall be reformed to give the provision the maximum effect allowed by Florida law and for the benefit of the Indemnitees. The Contractor shall ensure that any and all Subcontractors, and Suppliers, include this express paragraph for the benefit of the Indemnitees.

B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 Delegation of Professional Design Services

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 Other Work

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 Coordination

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 Legal Relationships

A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising, in whole or in part, out of Contractor's actions, inactions, or negligence, recklessness, or intentional misconduct in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify, defend, and hold harmless Indemnitees Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, liabilities, suits, liens, demands, interest, expenses, penalties, fines, judgments, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution fees and costs) whether monetary or otherwise, arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

- 9.01 Communications to Contractor
 - A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.
- 9.02 Replacement of Engineer
 - A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.
- 9.03 Furnish Data
 - A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 Pay When Due

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.
- 9.05 Lands and Easements; Reports, Tests, and Drawings
 - A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
 - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
 - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 Insurance

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 Change Orders

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 Inspections, Tests, and Approvals
 - A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 Limitations on Owner's Responsibilities
 - A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 Undisclosed Hazardous Environmental Condition
 - A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 Evidence of Financial Arrangements
 - A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 Safety Programs
 - A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
 - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 Owner's Representative

A. Engineer <u>and the Construction Manager</u>, <u>if any</u>, will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 Visits to Site

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 Resident Project Representative

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 Engineer's Authority

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 Determinations for Unit Price Work

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 Decisions on Requirements of Contract Documents and Acceptability of Work

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 Limitations on Engineer's Authority and Responsibilities

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 Compliance with Safety Program

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 Amending and Supplementing the Contract

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order or a Work Change Directive.

11.02 Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; such requests for Change Orders may be submitted by Construction Manager in consultation with the Contractor; however, all Change Orders must be reviewed and approved by the Engineer prior to final sign off by the Owner and implementation of the same; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 Work Change Directives

A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the

terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

- B. If Owner has issued a Work Change Directive and:
 - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 Field Orders

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 Owner-Authorized Changes in the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work including but not limited to for the purposes of achieving cost savings, and Owner reserves the right to delete portions of the Work and contract with third parties to provide any such deleted Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 Unauthorized Changes in the Work

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
 - 1. A mutually acceptable fixed fee; or
 - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be twenty (20)15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the

sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 Change of Contract Times

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 Change Proposals

A. Purpose and Content: Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. Change Proposal Procedures

- 1. *Submittal*: Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
- Supporting Data: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. Engineer's Initial Review: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.

- 4. Engineer's Full Review and Action on the Change Proposal: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
- 5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. Resolution of Certain Change Proposals: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 Notification to Surety

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 Claims

- A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 - 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the

decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. Review and Resolution: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. Mediation

- At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
- 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
- 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. Denial of Claim: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. Final and Binding Results: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. Purposes for Determination of Cost of the Work: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 - 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time and materials, or other cost-based terms; or
 - 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. Costs Included: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
 - 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 - 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 - 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

- 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
- 5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
 - c. Construction Equipment Rental
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions, or if none is specified, in a rate book mutually acceptable to both parties. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("Changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. Costs Excluded: The term Cost of the Work does not include any of the following items:
 - 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
 - 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 6. Expenses incurred in preparing and advancing Claims.
 - 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. Contractor's Fee
 - 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.

- b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.
- E. Documentation and Audit: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Upon assignment to the District, all such documentation may be considered public records under Florida Law as set forth in the Contract Documents and shall be maintained in accordance with Florida Law. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. Cash Allowances: Contractor agrees that:
 - the cash allowances include the cost to Contractor (less any applicable trade discounts)
 of materials and equipment required by the allowances to be delivered at the Site, and
 all applicable taxes; and
 - Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement and/or the Contract Documents.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. Adjustments in Unit Price

- 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
- The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
- 3. Adjusted unit prices will apply to all units of that item.
- 4. If during the performance of the Contract, the cost of materials purchased by Contractor significantly increases, through no fault of the Contractor, the price of this Contract shall be equitably adjusted by an amount reasonably necessary to fully compensate the Contractor for any such significant increase in the cost of materials, subject to the terms of Addendum 1 to this Agreement. As used herein, a significant increase shall mean any increase in cost of materials exceeding five percent (5%) experienced by Contractor from the date of the Contract's execution.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
 - Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.
- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by

Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 Defective Work

- A. Contractor's Obligation: It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. Costs and Damages: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 Acceptance of Defective Work

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 Uncovering Work

- A. Engineer <u>and/or Construction Manager</u> has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed. Engineer shall review each such additional inspection or testing of the Work.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 Owner May Stop the Work

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 Owner May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees,

- Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 Progress Payments

A. Basis for Progress Payments: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. Applications for Payments

- At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
- 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner. Progress payments are to be made only on installed material, and no payments shall be made on stored material, whether on or off site, unless prior written arrangements are made with Owner.
- 3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
- 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. Review of Applications

- 1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
- 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
- 3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
- 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Payment Becomes Due

Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set offs) will become due, and when due will be paid by Owner to Contractor. Upon assignment of this Agreement to the District, Owner shall make payment to the Contractor in the amount recommended by Engineer (subject to the provisions of this Contract) in accordance with the prompt payment provisions contained in Sections 218.70 et seq., Florida Statutes. Contractor shall make payments due to subcontractors and suppliers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes.

E. Reductions in Payment by Owner

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

- f. The Work is defective, requiring correction or replacement;
- g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- h. The Contract Price has been reduced by Change Orders;
- i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
- j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
- k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
- I. Other items entitle Owner to a set-off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 Contractor's Warranty of Title

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary

certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.
- G. Upon assignment of this Agreement to the District, to the extent this paragraph 15.03 is inconsistent in any way with Florida's Local Government Prompt Payment Act, sections 218.70 et seq., Florida Statutes (the "Act"), such Act shall control, and this Contract shall be construed to allow for the maximum amount of time allowable under the Act in order to review any punch lists and make payment.

15.04 Partial Use or Occupancy

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.

- 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
- 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
- 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 Final Inspection

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing with a single list of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Engineer and Contractor shall review each item on the list and assign a completion cost value (Cost of Work as defined in Paragraph 13.01) to each item based on the schedule of values provided in Contractor's bid and other reasonable completion cost estimates as mutually agreed to by Contractor and Engineer. In the event the Contractor and Engineer cannot agree on a cost value, the amount determined by Engineer shall be used. Engineer shall complete the list within thirty (30) days of Final Inspection completion and shall have five (5) days from list completion to review and provide to Contractor. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 Final Payment

A. Application for Payment

- 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
- 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and

- e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
- 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. Engineer's Review of Final Application and Recommendation of Payment: If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. Notice of Acceptability: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. Completion of Work: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work. Without intending to limit any other requirements set forth herein for final payment, the Work shall not be deemed complete until the Engineer has certified that, among any other requirements herein, the Contractor has completed all of the Work; there is satisfactory operation of all equipment, by means of acceptance tests; all punch list items has been corrected to the satisfaction of Owner and Engineer; the Contractor has provided all evidence of all releases of all mechanics', materialmen's and like liens; all warranties, equipment operation and maintenance manuals, As-Built Drawings and other required documents have been delivered; all other required approvals and acceptances by city, county and state governments, or other authority having jurisdiction have been provided; all rubbish, tools, and surplus materials and equipment from the Project Site have been removed; and a final affidavit and release of claims has been provided.
- E. Final Payment Becomes Due: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount

recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within <u>20</u> days of Owner's receipt of the final Application for Payment from Engineer.

15.07 Waiver of Claims

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 Correction Period

- A. If within one year two years after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or

arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.

- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 Owner May Suspend Work

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.
- B. When all or a portion of the Work is suspended for any reason, Contractor shall securely fasten down all coverings and other protections necessary to protect the Work and the Site from injury by the elements or otherwise.

16.02 Owner May Terminate for Cause

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a <u>any</u> material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.

- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 Owner May Terminate for Convenience

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Owner will pay to Contractor all amounts due and not previously paid to Contractor for Work completed in accordance with the Contract prior to such notice, as well as the cost of reasonably protecting Work in place, and for Work thereafter completed as specified in such notice, as well as release and payment to Contractor of all retainage held by Owner related to the portion of the Work completed. No payments will be made for any potential costs of settling or paying claims arising out of termination of the Work under subcontracts, equipment leases, orders or other related arrangements. In such case, Contractor shall be paid for (without duplication of any items):
 - completed and acceptable Work executed in accordance with the Contract Documents
 prior to the effective date of termination, including fair and reasonable sums for
 overhead and profit on such Work;
 - expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, <u>consequential damages of any kind</u>, or other economic loss arising out of or resulting from such termination.
 - C. <u>Upon any such termination, Contractor shall:</u>
 - 1. <u>Immediately discontinue Work on the date and to the extent specified in the notice</u> except to the extent necessary to protect Work in place;
 - 2. Place no further orders for materials, services, or facilities, other than as may be necessary or required for completion of such portion of Work under the Contract that is not terminated;
 - 3. Promptly make every reasonable effort to obtain cancellation upon terms reasonably satisfactory to Owner of all purchase orders and Subcontracts to the extent they relate to the performance of Work terminated or assign to Owner those orders and Subcontracts and revoke agreements specified in such notice;
 - 4. Reasonably assist Owner, as specifically requested in writing, in the protection and disposition of property acquired by Owner under the Contract, as may be necessary;
 - 5. Complete performance of any Work which is not terminated; and
 - 6. <u>Deliver to Owner an affidavit regarding the identity of unpaid potential lienors and</u> the amounts due to each.
- 16.04 Contractor May Stop Work or Terminate
 - A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or

- (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract Contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

- A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes*: For any dispute subject to resolution under this article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.
- C. In the event Owner or Contractor is required to enforce this Contract by court proceedings, alternative dispute resolution, appellate proceedings or otherwise, then the exclusive venue for any such legal action shall be in a court of appropriate jurisdiction in Polk County, Florida, and the prevailing party shall be entitled to recover from the other party all fees and costs, including reasonable attorney's fees and costs, paralegal fees, and expert witness fees, incurred in bringing or defending such action and/or enforcing any judgment granted in such action.

ARTICLE 18—MISCELLANEOUS

18.01 Giving Notice

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
 - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 - 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 Computation of Times

A. When any period of time is referred to in the Contract by days, it will be computed to <u>based</u> on <u>calendar days and shall</u> exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 Cumulative Remedies

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 Limitation of Damages

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, <u>supervisors</u>, <u>staff</u>, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 No Waiver

A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 Survival of Obligations

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 Controlling Law

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 Assignment of Contract

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 Successors and Assigns

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 Headings

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

18.11 Sovereign Immunity

A. Upon assignment of this Agreement to the District, Contractor and Owner agree that nothing in this Contract shall be deemed as a waiver of the District's sovereign immunity or the District's limits of liability as set forth in Section 768.28, Florida Statutes, or other statute or law, and nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

18.12 No Third-Party Beneficiaries

A. Except with respect to Contractor's indemnification of the Indemnitees as set forth herein, and except as otherwise specifically provided herein, this Contract is solely for the benefit of Owner and Contractor and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Contract (specifically including but not limited to any design professionals, subcontractors, or material suppliers directly engaged by Contractor). Nothing in this Contract expressed or implied is intended or shall be construed to confer upon any person or corporation other than Owner and Contractor any right, remedy, or claim under or by reason of this Contract or any of the provisions or conditions of this Contract; and all of the provisions, representations, covenants, and conditions contained in this Contract shall inure to the sole benefit of and shall be binding upon Owner and Contractor and their respective partners, representatives, successors, and assigns.

SUPPLEMENTARY CONDITIONS MASTER INFRASTRUCTURE PROJECT

The following supplements establish information supplementary to the *Standard General Conditions of the Construction Contract,* EJCDC Document No. C-700, 2018 Edition (the "**General Conditions**"), including establishing insurance limits and other requirements pursuant to Article 6, and identifying certain reports relating to subsurface conditions and hazardous conditions at the site pursuant to Article 5.

Other changes have been marked directly in underlined and strike-through text on the Standard Form of Agreement and the General Conditions. The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

SC-5.03 SUBSURFACE AND PHYSICAL CONDITIONS

1. *Reports.* Pursuant to Paragraph 5.03.A.1. of the General Conditions, the following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner and were used by Engineer in the preparation of the Contract Drawings and Specifications:

Subsurface Soil Exploration – Pavement and Ponds, GWE Project No. 21-20299; dated August 2021; prepared by Grindley Williams Engineering

Report of Geotechnical Engineering Evaluation – John G Wood Property, dated February 4, 2021, prepared by Faulkner Engineering Services, Inc.

2. *Drawings*. Pursuant to Paragraph 5.03.A.2. of the General Conditions, the following drawings of physical conditions relating to existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities) are known to Owner and were used by Engineer in the preparation of the Contract Drawings and Specifications:

None.

3. *Technical Data*. Pursuant to Paragraph 5.03.A.3. of the General Conditions, the following Technical Data is contained in the reports and drawings of subsurface and physical conditions:

None.

SC-5.06 HAZARDOUS ENVIRONMENTAL CONDITIONS AT SITE

1. *Reports.* Pursuant to Paragraph 5.06.A.1. of the General Conditions, the following reports of Hazardous Environmental Conditions at or adjacent to the Site are known to Owner:

No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

2. *Drawings*. Pursuant to Paragraph 5.06.A.2. of the General Conditions, the following drawings of Hazardous Environmental Conditions at or adjacent to the Site are known to Owner:

No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

3. *Technical Data*. Pursuant to Paragraph 5.06.A.3. of the General Conditions, the following Technical Data is contained in the reports and drawings of Hazardous Environmental Conditions:

No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

SC-6.01 PERFORMANCE, PAYMENT, AND OTHER BONDS

N/A

SC-6.03 CONTRACTOR'S INSURANCE

Pursuant to Paragraph 6.03.A. of the General Conditions, the limits of Contractor's required insurance shall be as follows.

- 1. Contractor shall provide coverage for not less than the following amounts, or greater where required by Laws and Regulations:
 - a. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability	
Each Accident	\$1,000,000
Each Employee	\$1,000,000
Policy Limit	\$1,000,000

b. Commercial General Liability

General Aggregate	\$3,000,000
Products - Completed Operations Aggregate	\$3,000,000
Personal and Advertising Injury	\$3,000,000
Bodily Injury and Property Damage*—Each Occurrence	\$3,000,000

^{*}Property Damage liability shall provide explosion, collapse, and under-ground coverages where applicable.

c. Automobile Liability*

Bodily Injury	
Each Person	\$1,000,000
Each Accident	\$1,000,000
Property Damage	
Each Accident	\$1,000,000
[OR]	
Combined Single Limit (Bodily Injury and Property Damage)	\$2,000,000

*Automobile liability insurance shall include coverage for all owned, non-owned, and hired vehicles

d. Excess or Umbrella Liability*

Per Occurrence	\$10,000,000
General Aggregate	\$10,000,000

e. Contractor's Pollution Liability*

Each Occurrence/Claim	\$1,000,000
General Aggregate	\$2,000,000

^{*}Pollution liability shall cover third-party injury and property damage claims, including clean-up costs.

f. Builder's Risk

- *i.* Amount upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof)
- ii. Form – must be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
- iii. Scope cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures;

cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier);

extend to cover damage or loss to insured property while in transit;

allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance;

allow for the waiver of the insurer's subrogation rights, as set forth below;

provide primary coverage for all losses and damages caused by the perils or causes of loss covered;

not include a co-insurance clause;

include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions;

include performance/hot testing and start-up; and

be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.

- 2. All insurance policies required to be purchased and maintained will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days after notice has been received by the purchasing policyholder. Within three days of receipt of any such notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.
- 3. Automobile liability insurance provided by Contractor will be written on an occurrence basis and provide coverage against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.
- 4. Contractor's commercial general liability policy will be written on a 1996 or later ISO commercial general liability occurrence form and include the following coverages and endorsements:
 - a. Products and completed operations coverage maintained for three (3) years after final payment;
 - b. Blanket contractual liability coverage to the extent permitted by law;
 - c. Broad form property damage coverage; and
 - d. Severability of interest; underground, explosion, and collapse coverage; personal injury coverage.

- 5. The Contractor's commercial general liability and automobile liability, umbrella or excess, pollution liability and builder's risk policies will include and list **Owner**, **Engineer**, **Woodland Ranch Estates LLC**, and **Woodland Ranch Estates 3 LLC** (and their successors and assigns), and the respective supervisors, subsidiaries, affiliates, professional staff, officers, directors, members, partners, employees, agents, consultants, and subcontractors of each as additional insureds; and the insurance afforded to these additional insureds will provide primary coverage for all claims covered thereby (including, as applicable, those arising from both ongoing and completed operations) on a noncontributory basis.
- 6. Additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- 7. Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for design professional additional insureds.
- 8. Umbrella or excess liability insurance will be written over the underlying employer's liability, commercial general liability, and automobile liability insurance. The coverage afforded must be at least as broad as that of each and every one of the underlying policies. Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy.
- 9. The Contractor shall provide property insurance covering physical loss or damage during construction to structures, materials, fixtures, and equipment, including those materials, fixtures, or equipment in storage or transit.
- 10. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 15. Alternatively, the Owner has the right but not the obligation to secure such required insurance in which event Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the Owner's obtaining the required insurance.

SC-8.02 COORDINATION

Pursuant to Paragraph 8.02 of the General Conditions, if Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjected to the Site, the following information pertains to such other work:

1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors:

Construction Manager, designated by the Owner.

2. An itemization of the specific matters to be covered by such authority and responsibility:

Refer to the General Conditions.

3. The extent of such authority and responsibilities:

Refer to the General Conditions.

SC-10.03 RESIDENT PROJECT REPRESENTATIVE

Pursuant to Paragraph 10.03.A. of the General Conditions, if Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, that representative and its authorities and responsibilities are identified below.

N/A

Pursuant to Paragraph 10.03.B. of the General Conditions, if Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, that representative and its responsibilities and authorities are identified below.

N/A



Fax: 863-294-1007

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To:	Center State Development 11C				
Address:	Center State Development, LLC 4900 Dundee Road		Contact:	Tim Todd	
Address.			Phone:		
	Winter Haven, FL 33884		Fax:		
Project Name:	Woodland Ranch Estates - Revision 3		Bid Number:	23-344	
Project Location:	HL Smith Road, Dundee, FL		Bid Date:	5/25/2023	
Item Description		Estimated Quantity	Unit	Unit Price	Total Price
GENERAL CONDITIO	ONS				
Mobilization		1.000	LS	\$95,578.26	\$95,578.26
Construction Layout 8	A As-Builts	1.000	LS	\$191,157.97	\$191,157.97
Soil Testing		1.000	LS	\$57,152.38	\$57,152.38
Maintenance Of Traffi	c	1.000	LS	\$1,592.49	\$1,592.49
	Total Price for	above GENERAL CON	NDITIONS Ite	ms:	\$345,481.10
EROSION CONTROL					
Type III Silt Fence		9,244.000	LF	\$2.02	\$18,672.88
	on Entrance - NO ASPHALT		EACH	\$4,552.11	\$4,552.11
SWPPP Monitoring		1.000	L\$	\$13,495.68	\$13,495.68
	Total Price	for above EROSION	CONTROL Ite	ns:	\$36,720.67
ONSITE ASPHALT &	DACE				
12" Stabilized Subgrace		26 200 000	6 V		
6" Limerock Base (LBF		36,399.000		\$4.41	\$160,519.59
1.25" SP 12.5 Asphalt	•	29,752.000		\$16.44 \$13.00	\$489,122.88
		29,752.000		\$12.08	\$359,404.16
	lotal Price for all	ove ONSITE ASPHAL	T & BASE Iter	ns:	\$1,009,046.63
CONCRETE/CURB					
Miami Curb		23,373.000	16	\$16.90	#20E 002 70
3' Valley Curb		422.000		\$46.90	\$395,003.70 \$19,791.80
Trench Curb		262.000		\$24.45	\$6,405.90
5' X 4" Concrete Sidew	ralk (Onsite Common Areas)	460,000		\$34.97	\$16,086.20
	ralk (Onsite Common Areas)	3,702.000		\$32.04	\$118,612.08
ADA Mats(Onsite Com		41.000		\$829.18	\$33,996.38
Mail Kiosk		1,078.000	time to the second	\$10.45	\$11,265.10
Bike Rack/ Bench Pads *** EXCLUDES FURNIS		390.000		\$8.47	\$3,303.30
	Total Pric	e for above CONCRE	TE/CURB Iten	ns:	\$604,464.46
PAVEMENT MARKING					
Bar, (20 EA) 30" Stop 9	Signage - (392 LF) 6" Yellow Stripe, (20 EA) 24" S Sign R-1 W/ D/3 Street Blades, (6 EA) Crosswalk apped Parking Space W/ Sign And Wheelstop, An		LS	\$15,869.38	\$15,869.38
	Total Price for above PAVE	MENT MARKINGS & :	SIGNAGE Iten	ns:	\$15,869.38



Fax: 863-294-1007 www.tuckerpaving.com

To:	Center State Development, LLC		Contact:	Tim Todd	
Address:	4900 Dundee Road		Phone:		
Audi ess.					
Desired Name	Winter Haven, FL 33884		Fax:	22.244	
Project Name:	Woodland Ranch Estates - Revision 3		Bid Number:	23-344	
Project Location:	HL Smith Road, Dundee, FL		Bid Date:	5/25/2023	
Item Description		Estimated Quantity	Unit	Unit Price	Total Price
42" HP Storm Pipe		737.000	LF	\$158.10	\$116,519.70
36" HP Storm Pipe		958.000	LF	\$134.67	\$129,013.86
30" HP Storm Pipe		1,638.000	LF	\$124.55	\$204,012.90
24" HP Storm Pipe		3,140.000	LF	\$89.63	\$281,438.20
18" HP Storm Pipe		3,677.000	LF	\$66.25	\$243,601.25
15" HP Storm Pipe		3,393.000	LF	\$59.75	\$202,731.75
42" ADS Mitered End		3.000	EACH	\$4,601.55	\$13,804.65
36" ADS Mitered End		1,000	EACH	\$2,624.53	\$2,624.53
30" ADS Mitered End		1.000	EACH	\$2,849.16	\$2,849.16
24" ADS Mitered End		1.000	EACH	\$2,624.53	\$2,624.53
18" ADS Mitered End	Section W/Rip Rap	1.000	EACH	\$2,509.01	\$2,509.01
Type C Inlet		14.000	EACH	\$4,179.07	\$58,506.98
Type E Inlet		14.000	EACH	\$5,500.36	\$77,005.04
Type F Inlet			EACH	\$7,320.65	\$14,641.30
Type V Inlet		1.000	EACH	\$8,944.29	\$ 8,944.29
Type P-5 Curb Inlet		30.000		\$6,371.99	\$191,159.70
Type J-5 Curb Inlet		18.000		\$11,036 .9 5	\$198,665.10
Type P-6 Curb Inlet		9.000	EACH	\$7,488.95	\$67,400.55
Type J-6 Curb Inlet		6.000	EACH	\$13,649.22	\$81,895.32
Type P Storm Manhol		12.000		\$6,285.35	\$75,424.20
Type J Storm Manhol	e		EACH	\$10,823.24	\$54,116.20
24" Headwall			EACH	\$4,572.53	\$4,572.53
	ucture - CS-20A & CS-20B		EACH	\$18,696.89	\$37,393.78
Dewatering Storm Ins	stallation	1.000		\$15,708.98	\$15,708.98
Light Clean & Video		1.000	LS	\$60,151.05	\$60,151.05
		Total Price for above STOR	M SEWER Ite	ms:	\$2,147,314.56
ONSITE SANITARY					
8" SDR 26 Pipe W/Ty	pe B Bedding	11,231.000	LF	\$39.37	\$ 44 2,164.47
8" MJ Plug Valve W/B		-	EACH	\$3,587.93	\$3,587.93
4' Ø Sanitary Manhole			EACH	\$6,818.70	\$40,912.20
4º Ø Sanitary Manhole	e 6-8'	16.000		\$7,558.04	\$120,928.64
4' Ø Sanitary Manhole	e 8-10'	7.000		\$9,080.35	\$63,562.45
4' Ø Sanitary Manhole	2 10-12'		EACH	\$9,366.28	\$46,831.40
5' Ø Sanitary Manhole	2 12-14'	5.000	EACH	\$14,227.99	\$71,139.95
5' Ø Sanitary Manhole	e 14-16'	2.000	EACH	\$16,650.30	\$33,300.60
5' Ø Sanitary Manhole	2 16-18'		EACH	\$18,514.55	\$37,029.10
6' Ø Sanitary Manhole	e 18-20'		EACH	\$25,190.27	\$25,190.27
5' Ø Sanitary Manhole	e 16-18' W/ Drop Connection		EACH	\$23,107.51	\$23,107.51
	75				

5/25/2023 4:13:44 PM Page 5 of 11



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То:	Center State Development, LLC		Contact:	Tim Todd	
Address:	4900 Dundee Road		Phone:		
	Winter Haven, FL 33884		Fax:		
Project Name:	Woodland Ranch Estates - Revision 3		Bid Number:	23-344	
Project Location:	HL Smith Road, Dundee, FL		Bid Date:	5/25/2023	
Item Description		Estimated Quantity	Unit	Unit Price	Total Price
6' Ø Sanitary Manhol	e 20-22' W/ Drop Connection	1.000	EACH	\$32,324.74	\$32,324.74
6' Ø Sanitary Manhol	e 22-24' W/ Drop Connection	1.000	EACH	\$32,731.96	\$32,731.96
Single Sanitary Servi	ce (Dundee)	59.000	EACH	\$1,807.32	\$106,631.88
Double Sanitary Serv	ice (Dundee)	124.000	EACH	\$2,045.00	\$253,580.00
Dewatering Sanitary	Installation	1.000	LS	\$19,595.74	\$19,595.74
TV And Air Testing -	Gravity Line/Manholes	1,000	LS	\$57,174.56	\$57,174.56
	Total Price	for above ONSITE S	SANITARY Iter	ms:	\$1,409,793.40
	N & LIFT STATION SYSTEM				
	eter Wet Well (2 EA) 15 HP - 3 Phase - 460 V	1.000	LS	\$472,420.81	\$472,420.81
Stone Inside Fenced	elemetry, 6" Concrete Driveway And Concrete Pad, . Area, Fencing, And Water Service.	5/			
*** EXCLUDES ODOR	R CONTROL				
6" Core Connection V	V/ Lining Of Manhole	1.000	EACH	\$21,912.23	\$21,912.23
*** Includes By Pass 6" DR18 Green Force					
6" MJ 45 Bend - P401	•	1,924.000		\$35.36	\$68,032.64
ARV Valve/Box/Tag V		16.000	to make	\$845.60	\$13,529.60
Pressure Testing	y vadit	2.000		\$9,281.29	\$18,562.58
Bahia Sod - Offsite		1.000		\$2,834.10	\$2,834.10
Dailla 300 - Offsite		495.000	1-2	\$3.17	\$1,569.15
	Total Price for above ONSITE FORCEM	AIN & LIFT STATIO	N SYSTEM Item	ns:	\$598,861.11
ONSITE WATER					
10" MJ Longsleeve		2.000	FACH	\$1,086.32	\$2,172.64
10" DR18 Water Pipe		2,004.000		\$72.40	\$145,089.60
8" DR18 Water Pipe		12,575.000		\$53.15	\$668,361.25
10" X 8" MJ Tee		4.000		\$1,372.52	
10" MJ 45 Bend		10.000		\$961.08	\$5,490.08 \$0,510.90
8" MJ Tee		10.000		\$979.63	\$9,610.80 \$0.706.30
8" MJ 90 Bend		1.000		17 4 970 137 ***********************************	\$9,796.30
8" MJ 45 Bend		44.000		\$733.93 #699.66	\$733.93
10" MJ Gate Valve W/	Boy/Tag			\$688.66	\$30,301.04
8" MJ Gate Valve W/B		4.000		\$270.83	\$1,083.32
Fire Hydrant Assembly		36.000		\$2,699.85	\$97,194.60
ARV Valve/Box/Tag W	•	15.000		\$7,501.53	\$112,522.95
Single - Short Water S		2.000		\$9,281.29	\$18,562.58
Single - Short Water S Single - Long Water S		43.000		\$1,001.43	\$43,061.49
Double - Short Water		24.000		\$1,036.67	\$24,880.08
Double - Long Water :		72.000		\$1,725.46	\$124,233.12
Irrigation Service	Service (Durinee)	52.000		\$1,799.97	\$93,598.44
Trugation Service		3.000	EACH	\$1,766.09	\$5,298.27



Fax: 863-294-1007 www.tuckerpaving.com

To:	Center State Development, LLC		Contact:	Tim Todd	
Address:	4900 Dundee Road		Phone:	iiii rodu	
	Winter Haven, FL 33884		Post to an appearance		
Project Name:	Woodland Ranch Estates - Revision 3		Fax:		
Project Location:			Bid Number:	23-344	
Item Description	HL Smith Road, Dundee, FL		Bid Date:	5/25/2023	
		mated Quantity	Unit	Unit Price	Total Price
Poly Pig Water Main	lain Pipe, Grout In Place	2,092.000		\$27.50	\$57,530.00
Testing And Bactees		1.000		\$5,668.19	\$5,668.19
resuring Ariu Bactees		1.000	10.7-5	\$18,168.56	\$18,168.56
	Total Price	for above ONSIT	TE WATER Ite	ns:	\$1,473,357.24
ITE CLEARING					
	And Trees Necessary For New Construction, Disk Site	1.000	10	400 7E2 00	400 770
& Burn Trees On Site.		1.000	ದ	\$89,753.06	\$89,753.06
Demo (4,762 SY) Of A And Demo (1 EA) Pun	Asphalt And Base, Demo (13,802) Barb Wire Fence, np House				
		for above SITE C	LEARING Iter	ns:	\$89,753.06
ARTHWORK					
	as Using Cut And Import Materials Placed And	4 000			
Compacted As Needed Completion.	d, Grade Pond/swales, And Final Grade At This Scopes	1.000	LS \$1	1,137,735.89	\$1,137,735.89
Import Clean Fill		176,347.000	CY	\$9.63	\$1,698,221.61
Import Clean Fill Credi	t For Dirt Provided By Owner	-3,132.000	CY	\$9.63	(\$30,161.16)
	Total Pric	e for above EAR	THWORK Iten	15:	\$2,805,796.34
DD/HYDROGRASSI	NG				
Bahia Sod - BOC		39,157.000	cv	¢2 17	¢124 127 co
Bahia Sod - Pond Side	Slopes/Swales	54,730.000		\$3.17	\$124,127.69
Seed & Mulch Lots	,	55.000		\$3.17 \$1,686.96	\$173,494.10
	Total Price for above				\$92,782.80
	100010100000	יייין עסטן וווין עסטן	Wasting Tiell	15:	\$390,404.59
FFSITE IMPROVEM					
Maintenance Of Traffic		1.000	LS	\$12,146.12	\$12,145.12
2" Stabilized Subgrad		7,189.000	SY	\$4.98	\$35,801.22
" Limerock Base (LBF	R 125)	6,954.000		\$21.18	\$147,285.72
" Stabilized Shoulder		2,712.000	SY	\$21.18	\$57,440.16
	evement (FDOT)	6,954.000		\$14.37	\$99,928.98
			=	\$34.97	\$40,914.90
' X 4" Concrete Sidew	alk	1,170.000	LI "	POT.2/	
' X 4" Concrete Sidew DA Handicap Ramp		1,1/0.000 4.000		\$2,127.77	\$8,511.08
' X 4" Concrete Sidew DA Handicap Ramp avement Markings & 5 7 EA) Directional Arrov	Signage - (12,493 LF) 6" Stripe, (353 LF) 18" Stripe.		EACH		
5" SP 12.5 Asphalt Pa " X 4" Concrete Sidew. DA Handicap Ramp avement Markings & 5 7 EA) Directional Arrow bitch Block ahia Sod - Offsite	Signage - (12,493 LF) 6" Stripe, (353 LF) 18" Stripe.	4.000	EACH LS EACH	\$2,127.77	\$8,511.08



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To:	Center State Development, LLC	Contact: Tim Todd
Address:	4900 Dundee Road	Phone:
	Winter Haven, FL 33884	Fax:
Project Name:	Woodland Ranch Estates - Revision 3	Bid Number: 23-344
Project Location:	HL Smith Road, Dundee, FL	Bid Date: 5/25/2023

Total Price for above OFFSITE IMPROVEMENTS Items:

\$486,066.27

HAUL FROM 1 MILE ROUND TRIP STOCKPILE

Import Clean Fill

Load And Haul Import To Site Up To 1 Mile Round Trip

*** Price Dependent On Having An Adequate Stabilized Access To The
Stockpile.

-173,215.000 CY

\$9.63

(\$1,668,060.45)

\$11,412,928.81

173,215.000 CY

\$4.77

\$826,235.55

Total Price for above Items:

Total Bid Price:

(\$841,824.90)

Notes:

- BID NOTES:
 - *** AT CURRENT BIDDING TIME, WE ARE EXPERIENCING INDUSTRY WIDE PRICE VOLATILITY IN THE PVC PIPE/FITTING MARKET. TUCKER PAVING RESERVES THE RIGHT TO REVIEW ALL FINAL PROPOSAL PRICING AT TIME OF CONTRACT AWARD.
- *** WATER MAIN CONNECTION WILL BE MADE WITH WATER SHUT OFF. IF WET TAPS AND BYPASS ARE REQUIRED THERE WILL BE A CHANGER ORDER.
- *** OFFSITE IMPROVEMENTS TO BE PERFORMMED UNDER ROAD CLOSURE. IF LANE CLOSURES ARE REQUIRED THERE WILL BE A CHANGE ORDER.
- *** EXCLUDED ALL FENCING INCLUDING AROUND PONDS
- *** EXCLUDES RETAINING WALLS AND GRAVITY WALLS
- *** EXCLUDES WELL ABANDONMENT

Specifically Not Included in Proposal:

- · Permit/Permit Fees
- · Bonds
- Littoral Plantings
- Landscaping & Irrigation
- Tree Protection/Pruning/Relocation
- Fence Relocation/Installation
- Asbestos Removal
- Installation/Relocation/Repair Of Fence/Gates
- Relocation/Removal/Repair Of Existing Or Unknown Utilities
- Utility/Service/Irrigation Sleeves
- Pig Port/Vaults
- · Relocation/Removal/Repair Of Power Poles Or Guy Wires
- Excavation/Backfill Of Building Foundation And/Or Footers
- Removal Of Muck/Contaminated/Unsuitable Soils Or Materials
- Over Excavation
- Project Identification Sign
- Materials/Work/Services not indicated or listed.



Fax: 863-294-1007 www.tuckerpaving.com

To:	Center State Development, LLC	Contact: Tim Todd
Address:	4900 Dundee Road	Phone:
	Winter Haven, FL 33884	Fax:
Project Name:	Woodland Ranch Estates - Revision 3	Bid Number: 23-344
Project Location:	HL Smith Road, Dundee, FL	Bid Date: 5/25/2023

ACCEPTED:	CONFIRMED:		
The above prices, specifications and conditions are satisfactory and hereby accepted.	Tucker Paving, Inc.		
Buyer: Harold R. Baxter			
Signature:	Authorized Signature:		
Date of Acceptance: 5/31/3 7/20/23	Estimator: Kyle Allen 863-299-2262 kallen@tuckerpaving.com		



5658 Lucerne Park Road Winter Haven, FL 33881 Phone: 863-299-2262 Fax: 863-294-1007 www.tuckerpaving.com

EQUIPMENT RATES		
Large Trackhoe (ex. PC490, 336, 470G)	Hour	\$ 215.00
Medium Trackhoe (ex. PC360, 329, EC380)	Hour	\$ 150.00
Small Trackhoe (ex. PC228, 320, 310, ECR145)	Hour	\$ 125.00
Mini Trackhoe (ex. PC55, PC35, ECR58)	Hour	\$ 90.00
Soil Mixer (ex. RM300, Terex)	Hour	\$ 260.00
2-3 Yard Loader (ex. WA250,WA270, 930K)	Hour	\$ 90.00
Dozer (ex. D61, D51, D39, D6	Hour	\$ 95.00
Motorgrader (ex. 672GP, 120H, 620G)	Hour	\$ 110.00
Skid Steer (ex. 289D)	Hour	\$ 75.00
84" Drum Roller W/Shell Kit (ex. H13I)	Hour	\$ 80.00
54" Drum Roller (ex. H7I)	Hour	\$ 55.00
Plate Tamp	Hour	\$ 50.00
Broom Tractor	Hour	\$ 70.00
Street Sweeper	Hour	\$ 315.00
Water Truck - 5000 Gallon	Hour	\$ 145.00
Water Truck - 3000 Gallon	Hour	\$ 105.00
25-30 Ton Off Road Dump Truck (ex. A25G, 730)	Hour	\$ 165.00
Roll Off Truck w/20 YD Can	Hour	\$ 90.00
18yd Dump Truck	Hour	\$ 90.00
6yd Dump Truck	Hour	\$ 85.00
Asphalt Paver (ex. AP500)	Hour	\$ 245.00
Vac Truck	Hour	\$ 325.00

LABOR RATES]	Е	BASE RATE	OVERTIME RATE
Superintendent	Hour	\$	56.50	\$ 84.50
Equipment Operator	Hour	\$	46.50	\$ 69.50
Foreman	Hour	\$	42.50	\$ 62.75
Pipe Layer	Hour	\$	38.50	\$ 56.80

^{***}Rates based upon minimum 8 hour work day.

^{***}Labor to Include 2 Hour Travel Time each day per Man.

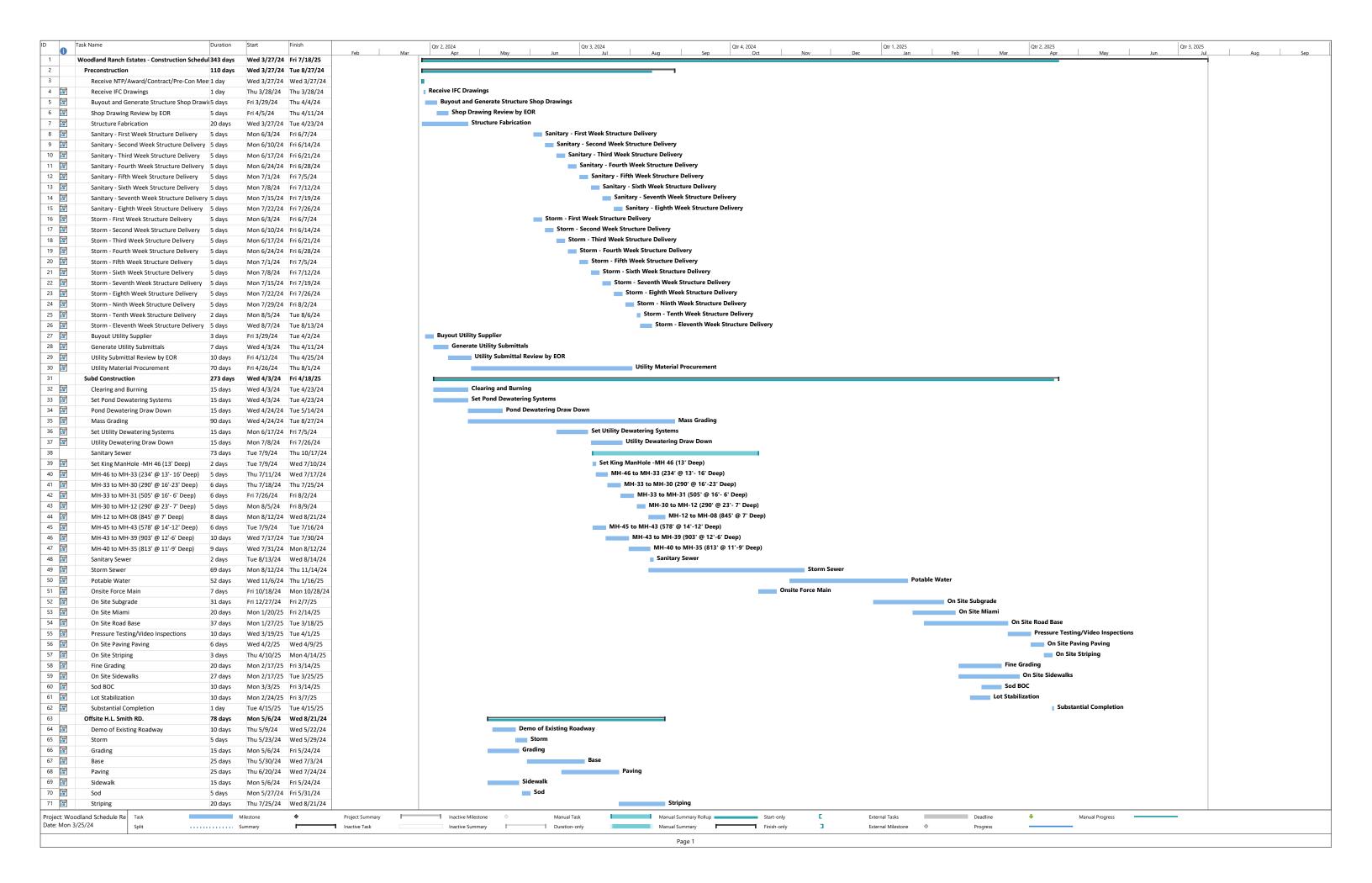
^{***}Mobilization/Demobilization of Equipment will be billed @ \$275.00 per piece of Equipment.

^{***}Specialty Equipment not listed above will be billed @ Rental Invoice plus Fuel, Plus Overhead & Profit.

^{***}Dump Fees of any kind are not included.

^{***}Water Truck/Water Wagon Rates do not include water. Water will be billed at cost plus Overhead & Profit.

^{***}There will be a fuel surcharge of 5% on total equipment cost.



SECTION B

ADDENDUM NO. 1 TO EJCDC LUMP SUM PRICE CONTRACT POTENTIALLY TIME AND PRICE-IMPACTED MATERIALS

This Addenda No. 1 to the Agreement made this ___ day of May 2024 is made contemporaneous with and supplements the Agreement dated May 20, 2024 between

Center State Development, LLC (the "OWNER")

and

Tucker Paving, Inc. (the "CONTRACTOR")

for the following

Master Infrastructure Project for Woodland Ranch Estates (the, "Project").

Terms used in this Addendum, unless otherwise defined, shall have the same meaning as defined in the Agreement.

- 1. POTENTIALLY TIME AND PRICE-IMPACTED MATERIAL. As of the date of this Amendment, certain markets providing essential materials to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material"). This Amendment provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule A to this Amendment.
- 2. **BASELINE PRICE AND TIME.** Owner and Contractor shall agree upon a method for establishing the market price as of the date of this Amendment ("Baseline Price") and the method for calculating an adjustment in the pricing for a Potentially Time and Price-Impacted Material listed in Schedule A to this Amendment.
 - 2.1. Compensation for any Potentially Time and Price-Impacted Material shall not be duplicated in any contingency amounts established under the terms of the Agreement.
- 3. **ADJUSTMENT IN BASELINE PRICE**. If during the course of the Project a Potentially Time and Price-Impacted Material item experiences an increase or decrease in its Baseline Price, either Party may notify the other in writing within ten (10) days from the date the basis for an equitable adjustment to the Contract Price arises and shall provide appropriate documentation substantiating such adjustment. An adjustment in the pricing for a Potentially Time and Price-Impacted Material shall <u>not</u> include any amount for markup, including overhead and profit.
 - 3.1. In the event of a decrease in a Baseline Price, the Contract Price shall be equitably adjusted to reflect such decrease, subject to section **Error! Reference source not found.** of this Amendment, but only for those Potentially Time and Price-Impacted Materials delivered on or after the date on which written notice of the adjustment in Baseline Price is given.
 - 3.2. In the event of an increase in a Baseline Price, the Contract Price shall be equitably adjusted to reflect such increase, subject to section **Error! Reference source not found.** of this Amendment, but only for those Potentially Time and Price-Impacted Materials delivered on or after the date on which written notice of the adjustment in Baseline Price is given.
 - 3.3. The Contract Price shall not be adjusted by more than Five (5%) percent of the original Contract Price for the aggregate of the increases or decreases in Baseline Prices for Potentially Time and Price-Impacted Materials.
 - 3.4. No adjustment shall be made for any quantities of Potentially Time and Price-Impacted Materials scheduled for delivery under the terms of the Agreement prior to the date on which written notice of

the adjustment in Baseline Price is given, unless the failure to deliver such quantities before that date is the fault of the Owner and is documented as such.

- 3.5. Payment, if any, for an adjustment shall be made in accordance with the terms of the Agreement.
- 4. TIME-IMPACT AND AVAILABILITY If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price-Impacted Material, beyond the control of and without <u>any</u> fault attributable to the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price in accordance with the Agreement. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays. Such steps shall include the expedited Shop Drawings submittal and response Milestone Dates set forth in the Agreement, immediate order of materials, and Owner direct purchase of materials, among other mitigation strategies.

OWNER: Center State Development, LLC

CONTRACTOR: Tucker Paving, Inc.

By: 🛌

END OF DOCUMENT.

SCHEDULE A TO ADDENDUM NO. 1

POTENTIALLY TIME AND PRICE-IMPACTED MATERIALS

Potentially Time and Price-Impacted Materials should be identified and described with specificity. The methods for establishing the Baseline Price for a Potentially Time and Price-Impacted Material should be based upon an objective standard and include: 1) established market or catalog prices; 2) actual material costs; 3) material costs indices; and, 4) such other mutually agreed upon method. Pricing based on material costs indices must identify the index category or subcategory that most accurately reflects the Potentially Time and Price-Impacted Material specified. Such Price-Impacted Materials must exceed the schedule of values line item by over 5% to be entitled to a Price adjustment. Further, submittal of at least two material supplier quotes for the same quantity and materials must accompany any request for a Price adjustment pursuant to this Amendment. Requests for Time based on unavailability of materials must be supported with milestone dates for delivery of materials in original bid and must be deemed reasonable with supporting affidavits by materials supplier and the time must deviate by more than 5% of schedule days.

1. Pote	ntially Time and Price-Impacted Material: []
	Baseline Price: \$[]/[] (unit) as established by Contractor's schedule of values (unless such line item was deemed unreasonable based on current pricing indexes and then such Baseline Price per unit shall be based on pricing index as of the date of bid opening).
	Pricing Method: []
2. Pote	ntially Time and Price-Impacted Material: Baseline Price: \$[]/[] (unit) as established by Contractor's schedule of values (unless such line item was deemed unreasonable based on current pricing indexes and then such Baseline Price per unit shall be based on pricing index as of the date of bid opening).
	Pricing Method: []
3. [Potentially Time and Price-Impacted Material: [] Baseline Price: \$[]/[] (unit) as established by Contractor's schedule of values (unless such line item was deemed unreasonable based on current pricing indexes and then such Baseline Price per unit shall be based on pricing index as of the date of bid opening).
	Pricing Method: []
4. Pote	entially Time and Price-Impacted Material: Baseline Price: []/[] (unit) as established by Contractor's schedule of values (unless such line item was deemed unreasonable based on current pricing indexes and then such Baseline Price per unit shall be based on pricing index as of the date of bid opening).
	Pricing Method: []
(Attach	an additional sheets as necessary) See a Hached

Material Type	Per	Unit Cost
#57 Stone	TON	\$41.68
1 GALV MI 150# CAP	EACH	\$5.08
1" CTS SDR9 HDPE Blue Pipe	LF	\$0.62
1" HDPE Stiffner	EACH	\$1.93
1" Lift Station Washdown W\ 1" RPZ & Hose Bib	EACH	\$1,270.63
1.5" CTS SDR9 HDPE Blue Pipe	LF	\$1.31
10" Bend Restraint - FM	EACH	\$152.27
10" Bend Restraint - WM	EACH	\$152.27
10" C900 DR18 PVC GJ Blue Pipe	LF	\$34.59
10" Pipe Restraint - WM	EACH	\$165.28
12" X 6" Kor N Seal Boot	EACH	\$127.06
15" HP Storm Pipe - Gray	LF	\$20.72
16x22 MTR BOX LID W/CI READ & TR	EACH	\$48.79
18" HP Storm Pipe - Gray	LF	\$24.65
2" Precast Grade Rings	EACH	\$25.41
24" Headwall	EACH	\$2,033.00
36" HP Storm Pipe - Gray	LF	\$70.87
4' Diameter Sanitary Manhole 0-6' Deep	EACH	\$3,982.65
4' Diameter Sanitary Manhole 10-12' Deep	EACH	\$5,747.29
4' Diameter Sanitary Manhole 6-8' Deep	EACH	\$4,503.10
4' Diameter Sanitary Manhole 8-10' Deep	EACH	\$5,444.37
4 PVC S40 SOC CAP	EACH	\$13.21
4 SDR21 CL200 PVC GJ BLUE PIPE	LF	\$7.12
4" DR26 Pipe	LF	\$4.57
4" DR26 Plug	EACH	\$6.00
4" PVC Sewer Hub Female Cleanout Adapter	EACH	\$27.45
4" PVC Sewer Thread Cleanout Plug	EACH	\$20.33
42" HDPE N12 Pipe	LF	\$91.03
48" Wood Stakes	EACH	\$0.51
5' Diameter Sanitary Manhole 12 -14'	EACH	\$8,974.68
5' Diameter Sanitary Manhole 14 - 16'	EACH	\$10,527.89
5' Diameter Sanitary Manhole 16-18'	EACH	\$11,840.19
6' Diameter Sanitary Manhole 18'-20' Depth	EACH	\$15,896.03
6' Diameter Sanitary Manhole 20'-22' Depth	EACH	\$17,786.72
6' Diameter Sanitary Manhole 22'-24' Depth	EACH	\$18,073.37
6 PVC SWR HUB FEM CO ADPT	EACH	\$27.75
6 PVC SWR REC THRD CO PLUG	EACH	\$21.19
6" DR 26 Pipe	LF	\$8.00
6" DR18 Green Pipe	LF	\$13.45
6" DR26 45 Bend	EACH	\$31.92
6" Pipe Restraint - FM	EACH	\$56.92
6" X 4" DR26 Wye	EACH	\$69.94
6" X 4" PVC Sewer Double Wye	EACH	\$115.27
8" Bend Restraint - WM	EACH	\$87.98
8" C900 DR18 PVC GJ Blue Pipe	LF	\$23.05

8" Pipe Restraint - WM	EACH	\$95.09
8" Plug Valve	EACH	\$2,335.00
8" SDR 26 90 Bend	EACH	\$177.89
8" X 1" Saddle	EACH	\$83.35
8" X 1.5" Saddle	EACH	\$88.44
8" X 14' SDR26 PVC GJ Sewer Pipe	LF	\$14.47
8" X 6" DR26 Wye	EACH	\$112.53
Aggregate - RipRap - Rubble	TON	\$30.50
ARV - Vault	EACH	\$2,541.25
ARV ASSY	EACH	\$2,943.48
Black Dragon Paint	5GAL	\$188.05
Bricks	EACH	\$0.56
Cap MJ - Solid - 8"	EACH	\$40.00
Clay Stabilzer	CY	\$3.56
Cold Tar Epoxy Paint	5GAL	\$228.71
Concrete - Flowable Fill	CY	\$177.89
Concrete - 3000 PSI - Pump Mix	CY	\$152.48
Concrete - Quikrete Concrete Mix - 80 lb bag	EACH	\$8.13
Crushed Concrete Base	TON	\$21.35
D-1 Filter Fabric	ROLL	\$1,016.50
D-2 Filter Fabric	SY	\$1.52
Detectable Tape - Black/Blue	LF	\$0.04
Detectable Tape - Black/Green	LF	\$0.04
DR9 Pipe - 1"	LF	\$0.61
Fill Dirt	CY	\$4.58
Fire Hydrant Assembly	EACH	\$4,637.63
Fire Hydrant Paint	EACH	\$25.41
FM - Tracer Wire	LF	\$0.36
Forcemain - 6" MJ 45 Bend P-401 Lined	EACH	\$382.41
Forcemain - 6" MJ Bend Restraint	EACH	\$64.85
Forcemain - Detectable Tape	LF	\$0.04
Form Lumber - 2" X 4"	EACH	\$21.66
Form Lumber - 3/4" Formply	EACH	\$91.49
Geotextile - Mirafi 160N - 100SY - 3' X 300'	ROLL	\$132.82
Landscape Service W/ 2" Backflow	EACH	\$844.20
LF 1 MIP X 1 CTS PJ COUP	EACH	\$90.65
LF 1 MIP X FIP CORP	EACH	\$77.39
LF 1-1/2 MIP X CTS PJ BALL COPR ST	EACH	\$173.40
LF 1-1/2 X 1 CTS PJ Y BRANCH	EACH	\$116.85
Lift Station - Concrete	LS	\$1,016.50
Lift Station - Pipe Materials	LS	\$43,939.71
Lift Station - Pumps	LS	\$73,950.38
Lift Station - Wet Well 8' Dia.	EACH	\$55,769.26
Limerock Base	TON	\$11.69
	EACH	\$6,414.12
Manhole - Storm - Type "1"		₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩₩
Manhole - Storm - Type "J" Manhole - Storm - Type "P"	EACH	\$3,212.14

MJ 45 Bend - 8"	EACH	\$142.56
MJ Gate Valve Assembly - 10"	EACH	\$0.00
MJ Gate Valve Assembly - 8"	EACH	\$1,709.85
MJ Longsleeve Adapter- 10"	EACH	\$210.77
MJ Tee - 8"	EACH	\$259.41
Nails - 16D Common	EACH	\$25.92
Off Road Diesel Fuel	GAL	\$3.90
Orange Safety Fence	LF	\$4.57
P401 Touch Up Kit	EACH	\$127.06
P-5 Curb Inlet Top	EACH	\$1,296.04
P-6 Curb Inlet Top	EACH	\$1,728.05
Pipe Lube	EACH	\$20.33
PVC - SDR 26 - Pipe - 8"	LF	\$14.47
PVC - SDR 26 - Bend - 4" X 45	EACH	\$25.41
PVC -SDR 26 - Tee - 8x8"	EACH	\$304.95
Ramnek	вох	\$76.24
Rebar - #4	EACH	\$20.33
Rub-r-nek Joint Wrap	EACH	\$167.72
Sanitary - 4" DR26 Pipe	EACH	\$4.57
Skimmer	EACH	\$1,016.50
Skimmer Bolts	LS	\$101.65
SP- 9.5 R ec	TON	\$91.49
Storm - 24" HDPE Pipe - N-12	LF	\$40.81
Storm - 30" HDPE Pipe - N-12	LF	\$64.05
Structure - Boot	EACH	\$76.24
Structure - Brick	EACH	\$0.56
Structure - Type C Inlet	EACH	\$2,163.11
Structure - Type E Inlet	EACH	\$3,049.50
Structure - Type F Inlet	EACH	\$4,208.31
Structure - Type P-5 Curb Inlet	EACH	\$2,020.80
Structure - Type P-6 Curb Inlet	EACH	\$2,353.20
Structure - Type P-6 Inlet W/J Bottom	EACH	\$6,689.59
Structure- Concrete Weir W/Skimmer	EACH	\$9,693.34
Tracer Wire - 10GA - Blue	LF	\$0.36
Type j-5 Curb Inlet	EACH	\$5,282.75
Type V Inlet	EACH	\$4,975.77
Water - 10" MJ 45 Bend	EACH	\$205.74
Water - 10" X 8" MJ Tee	EACH	\$324.26
Water - 8" MJ 90 Bend	EACH	\$174.43
Water - 8" MJ Bend Restraint	EACH	\$87.98
Water - Tracer Wire	LF	\$0.36
Wire Mesh - 6x6 10 Ga W1.4/w1.4 - 8'x20'	EACH	\$25.41

SECTION C

ASSIGNMENT OF CONTRACTOR AGREEMENT WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT MASTER INFRASTRUCTURE PROJECT

Assignor:

Center State Development, LLC ("Assignor")

Owner/Assignee:

Woodland Ranch Estates Community Development District ("Assignee" or

"District")

Contractor:

Tucker Paving, Inc. ("Contractor")

Contract:

Master Infrastructure Contract dated May 20, 2024 ("Contractor Agreement" or

"Project")

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor, does hereby transfer, assign and convey unto Assignee, all of the rights, interests, benefits and privileges of Assignor under the Contractor Agreement, by and between Assignor and Contractor, for the above-referenced Project. Further, Assignee does hereby assume all obligations of Assignor under the Contract arising or accruing after the date hereof. Contractor hereby consents to the assignment of the Contract and all of Contractor's rights, interests, benefits, privileges, and obligations to Assignee.

Executed in multiple counterparts to be effective the 21st day of May, 2024.

TUCKER PAVING, INC.

By:
Name: Parrice Braister
Title:

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT

Name: Brent Elliott, Chairperson

CENTER STATE DEVELOPMENT, LLC, a

Florida limited liability company

By: HRB LAND INVESTMENTS, LLC, its

Manager

By:

Name: Harold R. Baxter, its Manager

EXHIBITS:

- Developer's Affidavit and Agreement Regarding Assignment of Contractor Agreement
- Contractor's Acknowledgment and Acceptance of Assignment and Release
- Addendum to Contractor Agreement with Exhibits:
 - o Scrutinized Companies Statement
 - o Public Entity Crimes Statement
 - Trench Safety Compliance Act Statement
 - o Discrimination Statement

<u>DEVELOPER'S AFFIDAVIT AND AGREEMENT</u> REGARDING ASSIGNMENT OF CONTRACTOR AGREEMENT

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT MASTER INFRASTRUCTURE PROJECT

STATE OF FLOR	RIDA
STATE OF FLOF COUNTY OF	POLK

BEFORE ME, the undersigned, personally appeared Harold R. Baxter, as Manager of HRB Land Investments, LLC, Manager of Center State Development, LLC ("Developer"), who, after being first duly sworn, deposes and says:

- (i) I, Harold R. Baxter, am authorized to make this affidavit on behalf of Developer. I make this affidavit in order to induce the Woodland Ranch Estates Community Development District ("District") to accept an assignment of the Contractor Agreement (defined below).
- (ii) The agreement ("Contractor Agreement") between Developer and Tucker Paving, Inc. ("Contractor"), dated May 20, 2024, and attached hereto as Exhibit A, X was competitively bid prior to its execution or ____ is below the applicable bid thresholds and was not required to be competitively prior to its execution.
- (iii) Developer, in consideration for the District's acceptance of an assignment of the Contractor Agreement agrees to indemnify, defend, and hold harmless the District and its successors, assigns, agents, employees, staff, contractors, officers, supervisors, and representatives (together, "Indemnitees"), from any and all liability, loss or damage, whether monetary or otherwise, including reasonable attorneys' fees and costs and all fees and costs of mediation or alternative dispute resolution, arising out of, wholly or in part by, or as a result of any claims, liabilities, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, or judgments, against Indemnitees and which relate in any way to the assignment of, or bid process for the Contractor Agreement.
- (iv) Developer has obtained a release from Contractor (and all subcontractors and material suppliers thereto) acknowledging the assignment of the above referenced contract and the validity thereof, the satisfaction of the bonding requirements of Section 255.05, *Florida Statutes* (if applicable), and waiving any and all claims against the District arising as a result of or connected with this assignment. Such releases are attached as **Exhibit B**.
- (v) The Contractor has ____ furnished or will furnish a performance and payment bond in accordance with Section 255.05, Florida Statutes, which is attached hereto as **Exhibit C**, or _X_ was not required to provide such a bond pursuant to Section 255.05, Florida Statutes, and the Developer has agreed instead to furnish a demand note agreement pursuant to Section 255.05(7), Florida Statutes.
- (vi) Developer X represents and warrants that there are no outstanding liens or claims relating to the Contractor Agreement, or has posted a transfer bond in accordance with Section 713.24, *Florida Statutes*, which is attached hereto as **Exhibit D**.
- (vii) Developer represents and warrants that there are no payments to Contractor and any subcontractors or materialmen under the Contractor Agreement are outstanding and no disputes under the Contractor Agreement exist.

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

Executed this day of May, 2024.

WITNESS:

CENTER STATE DEVELOPMENT, LLC, a

Florida limited liability company

By: HRB LAND INVESTMENTS, LLC, its

Manager

Name. Harold R. Baxter, its Manager

STATE OF FLORIDA COUNTY OF ____Polk

The foregoing instrument was acknowledged before me by means of physical presence or □ online notarization this 20 day of May, 2024, by Harold R. Baxter, as Manager of HRB Land Investments, LLC, Manager of Center State Development, LLC.



E.M.
(Official Notary Signature & Seal)
Name:
Personally Known
OR Produced Identification
Type of Identification

Agreement by and between Developer and Tucker Paving, Inc., dated May 20, 2024 Exhibit A

Exhibit B Releases

Performance and Payment Bonds Exhibit C

CONTRACTOR'S ACKNOWLEDGMENT AND ACCEPTANCE OF ASSIGNMENT AND RELEASE

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT MASTER INFRASTRUCTURE PROJECT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tucker Paving, Inc. ("Contractor"), hereby agrees as follows:

- (i) The agreement ("Contractor Agreement") between Center State Development, LLC, and Contractor dated May 20, 2024, has been assigned to the Woodland Ranch Estates Community Development District ("District"). Contractor acknowledges and accepts such assignment and its validity.
- (ii) Contractor represents and warrants that either:
 - a. ____ Contractor has or will furnish and record a performance and payment bond in accordance with Section 255.05, *Florida Statutes*, and has notified any subcontractors, material suppliers or others claiming interest in the work of the existence of the bond; or
 - b. X Contractor has not been required to furnish or provide a performance and payment bond under Section 255.05, *Florida Statutes*, and has notified any subcontractors, materialmen or others claiming interest in the work that (a) no such bond exists; (b) the District, as a local unit of special purpose government, is not an "Owner" as defined in Section 713.01(23), *Florida Statutes*; and (c) there are no lien rights available to any person providing materials or services for improvements in connection with the Improvement Agreement.
- (iii) Contractor represents and warrants that all payments to any subcontractors or materialmen under the Contractor Agreement are current, there are no past-due invoices for payment due to the Contractor under the Contractor Agreement, and there are no outstanding disputes under the Contractor Agreement.
- (iv) Contractor hereby releases and waives any claim it may have against the District as a result of or in connection with such assignment.

[CONTINUED ON NEXT PAGE]

Under penalties of perjury, I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

TUCKER PAVING, INC.

By:

Name:

Patrice Braiste

Title:

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 3 day of May, 2024, by Patrice Braistes as of Tucker Paving, Inc., a Florida corporation.

Notary Public State of Florida
Brent A. Elliott
Braistes as Companies of Conficial Notary Signature & Seal)
Name:
Personally Known
OR Produced Identification
Type of Identification
Type of Identification

ADDENDUM ("ADDENDUM") TO CONTRACTOR AGREEMENT ("CONTRACT") WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT MASTER INFRASTRUCTURE PROJECT ("PROJECT")

- 1. ASSIGNMENT. This Addendum applies to that certain Master Infrastructure Contract dated May 20, 2024 ("Contract"), between the Woodland Ranch Estates Community Development District ("District") and Tucker Paving, Inc. ("Contractor"), which Contract was assigned to the District simultaneously with the execution of this Addendum. To the extent the terms of the Contract conflict with this Addendum, the terms of this Addendum shall control.
- 2. **DEMAND NOTE AGREEMENT; NO LIEN RIGHTS.** In lieu of a payment and performance bond, the Developer has agreed to furnish a demand note agreement pursuant to Section 255.05(7), *Florida Statutes*. Contractor agrees that the District is a local unit of special-purpose government and not an "Owner" as defined in Section 713.01(23), *Florida Statutes*. Therefore, notwithstanding anything in the Contract to the contrary, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.
- 3. INSURANCE. In addition to the existing additional insureds under the Contract, the District, its officers, supervisors, agents, attorneys, engineers, managers, and representatives also shall be named as additional insureds under the insurance provided pursuant to the Contract. Contractor shall furnish the District with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the District. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida. If Contractor fails to have secured and maintained the required insurance, the District has the right (without any obligation to do so, however), to secure such required insurance in which event, Contractor shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the District's obtaining the required insurance.
- 4. LOCAL GOVERNMENT PROMPT PAYMENT ACT. Notwithstanding any other provision of the Contract, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, Sections 218.70 through 218.80, Florida Statutes. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of two percent (2%) per month on the unpaid balance in accordance with Section 218.735(9), Florida Statutes.
- **5. RETAINAGE.** The following provision addresses the holding of retainage under the Contract:

Five percent (5%) of the amount of each progress payment shall be withheld as retainage until final completion of the Work, acceptance of the Work by the Owner, satisfaction of all punch list requirements, and submission of all required documents, subject to any offsets to which the Owner is entitled. Procedures for withholding and release of retainage shall be in accordance with Florida law, including sections 218.735 and 255.078, *Florida Statutes*.

6. INDEMNIFICATION. Contractor's indemnification, defense, and hold harmless obligations under the Contract shall continue to apply to the original indemnitees and shall further include

the District and its supervisors, consultants, agents, attorneys, managers, engineers and representatives. To the extent that a maximum limit for indemnification is required by law, and not otherwise set forth in the Contract, the indemnification limit shall be the greater of the limits of the insurance amounts set forth in the Contract or Ten Million Dollars (\$10,000,000), which amounts Contractor agrees bears a reasonable commercial relationship to the Contract and are enforceable, and were included as part of the bid and/or assignment documents. The Contractor's obligations hereunder are intended to be consistent with all provisions of applicable law, and to the extent found inconsistent by a court of competent jurisdiction, the Contract shall be deemed amended and/or reformed consistent with the intent of this paragraph and such that the obligations apply to the maximum limits of the law.

- 7. TAX-EXEMPT DIRECT PURCHASES. The parties agree that the District may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Contract. In such event, the following conditions shall apply:
 - a. Upon assignment of this Contract to the District, Owner shall be a governmental entity exempt from Florida sales and use tax, and will provide Contractor with a copy of its Consumer Exemption Certificate, and the provisions of this Section 9.12 shall apply. Owner may elect to implement a direct purchase arrangement whereby Owner will directly acquire certain materials ("Direct Purchase Materials") necessary for the completion of the Work directly from the suppliers to take advantage of Owner's tax-exempt status.
 - b. Within 10 days of the issuance of the Notice to Proceed or other written authorization for Work, Owner shall provide Contractor with a list of materials that will be treated as Direct Purchase Materials.
 - c. Owner shall issue purchase orders directly to suppliers of Direct Purchase Materials. Such purchase orders shall include Owner's consumer certificate of exemption number and shall require that the supplier provide the required shipping and handling insurance and provide for delivery with title and risk of loss transferring upon delivery at the jobsite and after acceptance by Owner. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the Owner and if the original contract contemplated sale of materials and installation by same person, the change order needs to reflect sale of materials and installation by different legal entities.
 - 1. Owner will be entitled to a reduction in the Lump Sum Bid amount provided in Section 5.01.A. in an amount equal to the actual Unit Cost of all Direct Purchased Materials, together with the applicable sales tax related to such Unit Cost included as part of Contractor's bid.
 - d. Owner shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and furnish a copy of same to the Contractor. Each Certificate of Entitlement must have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax-exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the governmental entity; (3) payment of the vendor's invoice will be made directly by the governmental entity to the vendor from public funds; (4) the governmental entity will take title to the tangible personal property from the vendor at the time of delivery by the vendor; and (5) the governmental entity assumes the risk of damage or loss at the time of delivery by the vendor.

- e. Upon delivery of the Direct Purchase Materials to the jobsite, the Owner, through Contractor as its agent, shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, Owner shall accept and take title to the Direct Purchase Materials through its agent, which is Contractor.
- f. Suppliers shall issue invoices directly to Owner. Owner shall process invoices and issue payment directly to the suppliers.
- g. Upon acceptance of Direct Purchase Materials, Owner shall assume risk of loss of same until they are incorporated into the Project. Contractor, as Owner's agent, shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products as required under the Contract Documents. All warranties provided by Contractor as part of Contract shall apply to all Direct Purchase Materials, as though Contractor had purchased the Direct Purchase Materials.
- 8. PUBLIC RECORDS. The Contractor agrees and understands that Chapter 119, Florida Statutes, may be applicable to documents prepared in connection with the services provided hereunder and agrees to cooperate with public record requests made thereunder. In connection with this Contract, Contractor agrees to comply with all provisions of Florida's public records laws, including but not limited to Section 119.0701, Florida Statutes, the terms of which are incorporated herein. Among other requirements, Contractor must:
 - a. Keep and maintain public records required by the District to perform the service.
 - b. Upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, or as otherwise provided by law.
 - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Contractor does not transfer the records to the District.
 - d. Upon completion of this Agreement, transfer, at no cost, to the District all public records in possession of the Contractor or keep and maintain public records required by the District to perform the service. If the Contractor transfers all public records to the District upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC RECORDS CUSTODIAN AT C/O JILL BURNS, GOVERNMENTAL MANAGEMENT SERVICES – CENTRAL

FLORIDA, LLC, 219 EAST LIVINGSTON STREET, ORLANDO, FLORIDA 32801, PHONE (407) 841-5524, AND JBURNS@GMSCFL.COM

- 9. SOVEREIGN IMMUNITY. Nothing in the Contract shall be deemed as a waiver of the District's sovereign immunity or the District's limits of liability as set forth in Section 768.28, *Florida Statutes*, or other statute, and nothing in the Contract shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.
- 10. NOTICES. Notices provided to the District pursuant to the Contract shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the following individuals:

District: Woodland Ranch Estates Community Development

District

219 East Livingston Street Orlando, Florida 32801 Attn: District Manager

With a copy to: Kilinski | Van Wyk PLLC

517 E. College Avenue Tallahassee, Florida 32301 Attn: District Counsel

- 11. SCRUTINIZED COMPANIES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to Section 287.135(5), Florida Statutes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached Exhibit A. If the Contractor is found to have submitted a false certification as provided in Section 287.135(5), Florida Statutes, or has been placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, or has been engaged in business operations in Cuba or Syria, or is now or in the future on the Scrutinized Companies that Boycott Israel List, or engaged in a boycott of Israel, the Owner may immediately terminate the Contract.
- 12. PUBLIC ENTITY CRIMES STATEMENT. Upon the Assignment, Contractor shall properly execute a sworn statement under Section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit B**.
- 13. TRENCH SAFETY ACT STATEMENTS. Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit C**.
- 14. **DISCRIMINATION STATEMENT**. Upon the Assignment, Contractor shall properly execute a sworn statement under Section 287.134(2)(a), *Florida Statutes*, regarding discriminatory vendor list, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit D**.

15. CONSTRUCTION DEFECTS. PURSUANT TO SECTION 558.005, FLORIDA STATUTES, ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE NOT SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum, effective the 21st day of May, 2024.

TUCKER PAVING, INC.,

a Florida corporation

Print name:

Title:

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT

Exhibit A: Scrutinized Companies Statement

Exhibit B: **Public Entity Crimes Statement**

Exhibit C: Trench Safety Act Statement

Exhibit D: Discrimination Statement

EXHIBIT A

SWORN STATEMENT PURSUANT TO SECTION 287.135(5), FLORIDA STATUTES, REGARDING SCRUTINIZED COMPANIES STATEMENTWITH ACTIVITIES IN SUDAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to: Woodland Ranch Estates Community Development District

1.

215.4725 and 215.473, Florida Statutes.

	by Patrick	Braisted	(print name of authorized representative). I
			it to testify as to the matters contained herein. I serve in
	for Tucker Paving, Inc.	("Contractor"), and am a	(print individual's title) uthorized to make this Sworn Statement on behalf of
	Contractor. Contractor	's business address is: 3	1058 Luce one Parte Old
		2,3	Winte Haven, FL 33881
2.	at the time of bidding of Scrutinized Companies Activities in Sudan List is created pursuant to State (together, "Prohibited Companies Companies at the time of bidding of Scrutinized Companies at the time of	r submitting a proposal for that Boycott Israel with the Scrutinize Companie Section 215.473, <i>Florida</i> criteria"), is ineligible for	Section 287.135, Florida Statutes, declares a company that, or a new contract or renewal of an existing contract, is on the Activities in Sudan List, or the Scrutinized Companies with a with Activities in the Iran Petroleum Energy Sector List, or Statutes, or that has business operations in Cuba or Syria and may not bid on, submit a proposal for, or enter into or for goods or services of \$1 million or more.
3.	its Contract with Center District, neither the ent agents, is listed on Scr Activities in the Iran T	State Development, LLC ity, nor any of its officer utinized Companies with errorism Sectors List, or	entity submitting this sworn statement accepts assignment of to the Woodland Ranch Estates Community Development directors, executives, partners, shareholders, members, or Activities in Sudan List, the Scrutinized Companies with the Scrutinized Companies that Boycott Israel List created arida Statutes, and that it does not have business operations
is placed	f either the entity, or a lon the Scrutinized Cor	my of its officers, director mpanies with Activities is	and Ranch Estates Community Development District in rs, executives, partners, shareholders, members, or agents, a Sudan List, the Scrutinized Companies with Activities in anies that Boycott Israel List created pursuant to Sections

[Continued on following page]

Under penalties of perjury under the la Sworn Statement under Section 287.135(5), F. information provided is true and correct.	By: Name: Name:
STATE OF FLORIDA COUNTY OF The foregoing instrument was acknown otarization this day of Ma 2024, by Tucker Paving, Inc., a Florida corporation.	rledged before me by means of physical presence or online
Notary Public State of Florida Brent A. Elliott My Commission HH 483252 Expires 5/14/2028 (SEAL)	(Official Notary Signature & Seal) Name: Personally Known OR Produced Identification Type of Identification

EXHIBIT B <u>SWORN STATEMENT ON PUBLIC ENTITY CRIMES</u> PURSUANT TO SECTION 287.133(3)(A), FLORIDA STATUTES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1.	This sworn statement is submitted to Woodland Ranch Estates Community Development District.
2.	I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of for Tucker Paving, Inc. ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.
3.	Contractor's business address is 5658 Lucine Park RL
	Winter Hun, FC 33881
4.	Contractor's Federal Employer Identification Number (FEIN) is 59-3315987
	(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:)
_	Y 1 (1 d. W. 11) with a defined in Continu 207 122(1)(a) Florida Statutas magne

- 5. I understand that a "public entity crime" as defined in Section 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
- 6. I understand that "convicted" or "conviction" as defined in Section 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
- 7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 - a. A predecessor or successor of a person convicted of a public entity crime; or,
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
- 8. I understand that a "person" as defined in Section 287.133(1)(e), Florida Statutes, any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

).	Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)
	Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.
	The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies):
	There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)
	The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)
	The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR/VENDOR EXECUTING THIS PUBLIC ENTITY CRIME AFFIDAVIT TO VERIFY THAT NONE OF THE SUBCONTRACTORS/SUPPLIERS UTILIZED FOR THIS BID/QUOTE HAVE BEEN CONVICTED OF A PUBLIC ENTITY CRIME SUBSEQUENT TO JULY 1, 1989. IN THE EVENT IT IS LATER DISCOVERED THAT A SUBCONTRACTOR/SUPPLIER HAS BEEN CONVICTED OF A PUBLIC ENTITY CRIME, THE CONTRACTOR/VENDOR SHALL SUBSTITUTE THE SUBCONTRACTOR/ SUPPLIER WITH ANOTHER WHO HAS NOT RECEIVED A CONVICTION. ANY COST ASSOCIATED WITH THIS SUBSTITUTION SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR/VENDOR.

[CONTINUE ON NEXT PAGE]

Under penalties of perjury under the laws of the State of Florida, I declare that I have read the foregoing Sworn Statement under Section 287.133(3)(a), *Florida Statutes*, Regarding Public Entity Crimes and all of the information provided is true and correct.

Dated this 23 day of May, 2024.

TU	ICKER	PAVING	INC.			
Dv	1	M				
By: Nai		atrick	Braist	16		
Titl	le:	EVE	7	=======================================		
OTATE OF I	EI ODID					
STATE OF I		Poll				

COUNTY OF
The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 23 day of May, 2024, by Datrak Braintel, as or
Tucker Paving, Inc., a Florida corporation.

Notary Public State of Florida
Brent A. Elliott
My Commission HH 483252
Expires 5/14/2028

(M) (M)	
(Official Notary Signature & Seal)	
Name:	
Personally Known	
OR Produced Identification	
Type of Identification	

EXHIBIT C TRENCH SAFETY ACT COMPLIANCE STATEMENT WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT

INSTRUCTIONS

Because trench excavations on this project are expected to be in excess of 5 feet, Florida's Trench Safety Act, Sections 553.60 - 553.64, Florida Statutes, requires that construction on the project comply with Occupational Safety and Health Administration Standard 29 C.F.R.s. 1926.650 Subpart P. Contractor is required to execute this Compliance Statement and the Compliance Cost Statement. The costs for complying with the Trench Safety Act must be incorporated into the Contract Price.

This form must be certified in the presence of a notary public or other officer authorized to administer oaths.

CERTII

My Commission HH 483252

Expires 5/14/2028

oaths.
CERTIFICATION
 I understand that the Trench Safety Act requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.
2. The estimated cost imposed by compliance with The Trench Safety Act will be: Fifth Eight Thered One hadred and thinky Fix Dollars \$ 58,135 (Written) (Figures)
(Written) (Figures) 3. The amount listed above has been included within the Contract Price.
Dated this 23 day of May, 2024.
By: Name: Patrice Brassec Title:
STATE OF FLORIDA COUNTY OFP*/k
The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 23 day of May, 2024, by
Notary Public State of Florida Brent A. Elliott Name: Name:

Personally Known

OR Produced Identification _____ Type of Identification _____

TRENCH SAFETY ACT COMPLIANCE COST STATEMENT WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT

INSTRUCTIONS

Because trench excavations on this Project are expected to be in excess of 5 feet, Florida's Trench Safety Act, Sections 553.60 – 553.64, Florida Statutes, requires that the Contractor submit a statement of the costs of complying with the Trench Safety Act. Said costs must also be incorporated into the Contract Price. This form must be certified in the presence of a notary public or other officer authorized to administer oaths. By executing this statement, Contractor acknowledges that included in the various items of its Contract Price are costs for complying with the Florida Trench Safety Act. The Contractor further identifies the costs as follows:

Type of Trench Safety Mechanism	Quantity	Unit Cost ¹	Item Total Cost
Proper Bendsin	36,046 LF	\$ 1.05	\$45,057.50
Shanny	5,321 4	\$ 2.50	13,077.50
J	× ×		
		Project Total	\$ 58,135.00

TUCKER PAVING,

Dated this 23 day of May, 2024.

	Name: Physick Braicket Title: EVD
STATE OF FLORIDA COUNTY OFPo/k	
The foregoing instrument was acknown online notarization this 23 day of EVP, Tucker Paving,	vledged before me by means of physical presence or \square May, 2024, by Patrick Brainky, as Inc., a Florida corporation.
	Ellas
Notes	(Official Notary Signature & Seal)
Notary Public State of Florida Brent A. Elliott	Name:
A BOOM INCLUDIO MY COMMISSION ULL 1000-	Personally Known
Expires 5/14/2028	OR Produced Identification
	Type of Identification

¹ Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

EXHIBIT D

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT SWORN STATEMENT PURSUANT TO SECTION 287.134(2)(a), FLORIDA STATUTES, ON DISCRIMINATION

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1.	This sworn statement is submitted to Woodland Ranch Estates Community Development District.
2.	I, Patrice Brassed (print name of authorized representative) am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of (print individual's title) for Tucker Paving, Inc. ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.
3.	Contractor's business address is 5658 LVLerre Park R2 Winter three, 12388
4.	Contractor's Federal Employer Identification Number (FEIN) is 54.3315987
	(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement:)
5.	I understand that a "discrimination" or "discriminated" as defined in Section 287.134(1)(b), <i>Florida Statutes</i> , means a determination of liability by a state circuit court or federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion by an entity; if an appeal is made, the determination of liability does not occur until the completion of any appeals to a higher tribunal.
6.	I understand that "discriminatory vendor list" as defined in Section 287.134(1)(c), <i>Florida Statutes</i> , means the list required to be kept by the Florida Department of Management Services pursuant to Section 287.134(3)(d), <i>Florida Statutes</i> .
7.	I understand that "entity" as defined in Section 287.134(1)(e), <i>Florida Statutes</i> , means any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity.
8.	I understand that an "affiliate" as defined in Section 287.134(1)(a), Florida Statutes, means:
	a. A predecessor or successor of an entity that discriminated; or
	b. An entity under the control of any natural person or entity that is active in the management of the entity that discriminated. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one entity of shares constituting a controlling interest in another entity, or a pooling of equipment or income among entities when not for fair market value under an arm's length agreement, shall be a prima facie case that one entity controls another entity
9.	I understand that, pursuant to Section 287.134(2)(a), Florida Statutes, an entity or affiliate who has been

placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier,

9.

subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.) Neither the entity submitting this sworn statement, nor any affiliate of the entity, has been placed on the discriminatory vendor list. The entity submitting this sworn statement, or an affiliate of the entity, appears on the discriminatory vendor list. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR/VENDOR EXECUTING THIS AFFIDAVIT TO VERIFY THAT NONE OF THE SUBCONTRACTORS/SUPPLIERS UTILIZED FOR THIS BID/QUOTE HAVE BEEN PLACED ON THE DISCRIMINATORY VENDOR LIST. IN THE EVENT IT IS LATER DISCOVERED THAT A SUBCONTRACTOR/SUPPLIER HAS BEEN PLACED ON THE DISCRIMINATORY VENDOR LIST, THE CONTRACTOR/VENDOR SHALL SUBSTITUTE THE SUBCONTRACTOR/ SUPPLIER WITH ANOTHER WHO HAS NOT PLACED ON THE DISCRIMINATORY VENDOR LIST. ANY COST ASSOCIATED WITH THIS SUBSTITUTION SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR/VENDOR. I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY. Signature by authorized representative

STATE OF FLORIDA COUNTY OF _____ Po/ Sworn to and subscribed before me by means of physical presence or □ online notarization, this _ day of May, 2024, by Patrak Brainted , as Paving, Inc.. Notary Public State of Florida (Official Notary Signature) Brent A. Elliott My Commission HH 483252 Name: Expires 5/14/2028 Personally Known OR Produced Identification notary seal Type of Identification

SECTION D

DEMAND NOTE AGREEMENT

- WHEREAS, on or around May 21, 2024, the Woodland Ranch Estates Community Development District (the "District" or "Owner") accepted assignment of a construction contract with Tucker Paving, Inc., a Florida corporation (the "Principal"), for construction services, a copy of which is attached hereto as Exhibit "A" (the "Contract"); and
- **WHEREAS**, Section 255.05(7), *Florida Statutes*, provides in pertinent part, "[i]n lieu of the bond required by this section, a contractor may file with the state, county, city or other political authority an alternative form of security in the form of . . . a security of a type listed in part II of chapter 625"; and
- WHEREAS, Section 255.05(7), Florida Statutes, in pari materia with 625.317, Florida Statutes (a component of part II of chapter 625), permits "notes" and "other interest-bearing or interest accruing obligations of any solvent corporation organized under the laws of . . . any state" as alternative forms of security under Section 255.05(7), Florida Statutes; and
- **WHEREAS**, Section 255.05(7), *Florida Statutes*, also provides in pertinent part, that "[a]ny such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section"; and
- WHEREAS, the primary developer, Center State Development, LLC (the "Guarantor") desires to provide this instrument (the "Demand Note") to obviate the need for the Principal to incur the expense of a standard public construction bond; and
- **WHEREAS**, Guarantor is a solvent company organized as required by Section 255.05(7), *Florida Statutes*; and
- **WHEREAS**, the District, Guarantor and Principal intend for this Demand Note to satisfy the requirements of Section 255.05(7), *Florida Statutes*, in all respects.
- **NOW, THEREFORE**, in consideration of the premises set forth above and the promises contained in this Demand Note, the parties agree as follows:

Section I

BY THIS INSTRUMENT, we, Principal and Guarantor, are bound to Owner, in the sum of up to \$11,412,928.81. (the "Remaining Contract Price"), which sum shall be subject to adjustment as provided herein, for payment of which we bind ourselves and our successors and assigns, jointly and severally. The recitals are true and correct and by this reference are incorporated herein.

THE CONDITION OF THIS DEMAND NOTE is that if Principal:

1. Performs the Contract; and

- 2. Promptly makes payments to all claimants, as defined in Section 255.05(1), *Florida Statutes*, supplying Principal with labor, materials or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract; and
- 3. Pays Owner upon demand all losses, damages, expenses, costs and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract; and
- 4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this Demand Note is void; otherwise, it remains in full force.

Any changes in or under the documents comprising the Contract and compliance or noncompliance with any formalities required under the Contract do not affect Guarantor's obligation under this Demand Note.

THE PROVISIONS AND LIMITATIONS OF SECTION 255.05, FLORIDA STATUTES, AND ALL NOTICES AND TIME LIMITATIONS PROVIDED THEREIN ARE INCORPORATED HEREIN BY REFERENCE.

Section II

- A. For any actual amounts due under this Demand Note, Guarantor agrees to pay such amounts upon demand of Owner, plus an amount of interest on all such losses, damages, expenses, costs and attorney's fees from the date such are incurred by Owner, at a rate of 1% per month, provided however that Guarantor's maximum liability under this Demand Note shall be equal to the Contract Price (subject to such adjustments as provided for herein).
- B. In accordance with Section 255.05(7), *Florida Statutes*, the valuation of this Demand Note shall be set at the Contract Price, which the parties agree may be increased in amount by authorized Change Order only with the prior written consent of all parties hereto. Upon Guarantor's or Principal's submission to the District of evidence of proper payment under the Contract, the maximum liability of Guarantor under the Demand Note shall be automatically reduced in an amount equal to such payment amount, and the District shall note the same in its records.

Section III

The District, Guarantor, and Principal intend for this Demand Note to satisfy the requirements of Section 255.05(7), Florida Statutes, in all respects. In the event that it is determined by a court of competent jurisdiction that this Demand Note does not satisfy such requirements, the parties agree to take all actions necessary to amend this Demand Note to the extent required to satisfy such requirements. In the event that it is determined by any court of competent jurisdiction that this Demand Note does not satisfy such requirements, and amendment of this Demand Note cannot satisfy such requirements, at the District's election, either 1) Guarantor, shall provide an alternate form of security that meets the requirements of Section

255.05(7), Florida Statutes, or 2) the District shall cause Principal to obtain, and Principal agrees to obtain, at Principal's cost and expense, a standard public construction bond pursuant to Section 255.05, Florida Statutes, which cost Principal may recover from the District through a change order to the Contract.

Section IV

In the event any party is required to enforce this Demand Note by court proceedings or otherwise, then the prevailing party, as determined by the applicable court or other dispute resolution provider, shall be entitled to recover from the non-prevailing party(ies) all fees and costs incurred, including reasonable attorney's fees and costs incurred prior to or during any litigation or other dispute resolution and including all fees and costs incurred in appellate proceedings.

Section V

This Demand Note and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. The parties hereby knowingly, irrevocably, voluntarily and intentionally waive any rights to a trial by jury in respect of any action, proceeding or counter claim based on this Demand Note or arising out of, under or in connection with this Demand Note or any document or instrument executed in connection with this Demand Note, or any course of conduct, course of dealing, statements (whether verbal or written) or action of any party hereto. This provision is a material inducement for the parties entering into the subject Demand Note. Nothing herein shall waive, supplant or otherwise abrogate any other commitment or obligation contained in any other Demand Note unless specifically noted herein.

Section VI

All notices, requests, consents and other communications hereunder ("Notifications") shall be in writing and shall be delivered, mailed by Certified Mail, return receipt requested, postage prepaid, or overnight delivery service providing proof of delivery to the parties, as follows:

A.	If to District:	Woodland Ranch Estates CDD c/o Governmental Management Services, LLC 219 E. Livingston Street Orlando, Florida 32801 Attn: District Manager
	With a copy to:	Kilinski Van Wyk PLLC 517 E. College Avenue Tallahassee, Florida 32301 Attn: Lauren Gentry
В.	If to Guarantor:	Center State Development, LLC 4900 Dundee Road, Winter Haven, Florida 33884 Attn:

C.	If to Principal:	Tucker Paving, Inc.
	_	5658 Lucerne Park Road

Winter Haven, Florida 33881

Attn: _____

Except as otherwise provided herein, any Notification shall be deemed received only upon actual delivery at the address set forth herein unless such delivery is refused, in which case Notification shall be deemed received on the date of first attempted delivery. Notifications delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notification contained in this Demand Note would otherwise expire on a non-business day, the Notification period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notifications on behalf of the parties. Any party or other person to whom Notifications are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notifications shall be sent by providing the same on five (5) days' written notice to the parties and addressees set forth herein.

Section VII

The parties agree nothing contained in this Demand Note shall constitute or be construed as a waiver of the District's limitations on liability set forth in Section 768.28, Florida Statutes, and other applicable law. This Demand Note is solely for the benefit of the parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in this Demand Note expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Demand Note or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.

Section VIII

Each party shall take such actions to execute, file, record, publish and deliver such additional certificates, instruments and other documents as the other party may, from time to time, reasonably require in order to accomplish the purposes of this Demand Note. If any provisions of this Demand Note shall be held invalid or unenforceable, such invalidity or unenforceability shall not, if possible, affect the validity or enforceability of any other provision of this Demand Note, and this Demand Note shall, if possible, be construed in all respects as if such invalid or unenforceable provision were omitted.

Section IX

No party may assign their rights, duties or obligations under this Demand Note or any monies to become due hereunder without the prior written consent of the other parties, which consent shall not be unreasonably withheld.

Section X

This Demand Note has been negotiated fully between the parties as an arm's length transaction. The parties participated fully in the preparation of this Demand Note and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Demand Note, all parties are deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against any party.

Section XI

This Demand Note shall become effective immediately.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

WITNESSES:

Signed, sealed and delivered in the presence of:	Woodland Ranch Estates Community Development District
HULL ESTEE Print Name: BANENE. P. HEME	By:Brent Elliott, Chairperson
Print Name: Dottie Mobiley	
STATE OF FLORIDA COUNTY OF POIL	
The foregoing instrument was acknowledged □ online notarization this 2/ day of MAY of the Woodland Ranch Estates Community Development is personally known to me or □ produced	pment District, on behalf of the District. He 🛇
Notary Public State of Florida Karen E Ritchie My Commission HH 393321 Expires 5/1/2027	Print Name: <u>HANEN F RANGE</u> Notary Public, State of Florida Commission No.: <u>HH393321</u> My Commission Expires:
	{Notary Seal}

Signed, sealed and delivered CENTER STATE DEVELOPMENT, LLC, a in the presence of: Florida limited liability company By: HRB LAND INVESTMENTS, LLC, its Manager Name. Harold R. Baxter, its Manager STATE OF FLORIDA COUNTY OF The foregoing was sworn to and subscribed before me by means of physical presence or \square online notarization this 2p day of 2024, by Harold R. Baxter, on behalf of Center State Development, LLC, a Florida limited liability company. He 2 is personally known to me or \square produced as identification. Notary Public State of Florida (Signature of Notary Public) Brent A. Elliott My Commission HH 483252 Expires 5/14/2028 (Typed name of Notary Public) Notary Public, State of Florida Commission No.: My Commission Expires:_

Signed, sealed and delivered in the presence of:	Tucker Paving, Inc. a Florida corporation
Print Name: Brest Ellist Dattle Mobley Print Name: Dottie Mobley	By: Its:
STATE OF FLORIDA COUNTY OF The foregoing was sworn to and subscr or \(\square \) online notarization this \(\frac{23}{2} \) day of behalf of Tucker Paving, Inc. He \(\frac{1}{2} \) is personally as identification.	ibed before me by means of physical presence Nay 2024, by <u>fatrick Brainfer</u> , or y known to me or □ produced
	(Signature of Notary Public) (Typed name of Notary Public)
Notary Public State of Florida Brent A. Elliott My Commission HH 483252 Expires 5/14/2028	Notary Public, State of Florida Commission No.: My Commission Expires:

Exhibit A: Contract

EXHIBIT A

SECTION E

CONSTRUCTION FUNDING AGREEMENT BETWEEN WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT AND CENTER STATE DEVELOPMENT, LLC

THIS AGREEMENT ("Agreement") is made and entered into and effective as of the 21st day of May 2024, by and between:

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, with a mailing address of 219 East Livingston Street, Orlando, Florida 32801 ("District"), and

CENTER STATE DEVELOPMENT, LLC, a Florida limited liability company, an owner of certain lands within the District, with a mailing address of 4900 Dundee Road, Winter Haven, Florida 33884, and its successors and assigns ("Developer")

RECITALS

WHEREAS, the District was established pursuant to the Uniform Community Development District Act of 1980, Chapter 190, *Florida Statutes*, as amended (the "Act"), and is validly existing under the Constitution and laws of the State of Florida; and

WHEREAS, the Developer is the owner and/or developer of certain undeveloped lands located within the boundaries of the District identified in the Engineers Report (as defined below, the undeveloped lands described therein being the "Development") upon which the District's improvements have been or will be made; and

WHEREAS, the District, pursuant to Chapter 190, *Florida Statutes*, is authorized to levy such taxes, special assessments, fees, and other charges as may be necessary in furtherance of the District's activities and services; and

WHEREAS, the District is anticipated to be without sufficient funds available to provide for the construction of anticipated master improvements and facilities within the Development, which are described in the *Engineer's Report of Capital Improvements*, dated September 26, 2023, attached hereto as **Exhibit A** (the "Engineer's Report") including construction and any design, engineering, legal, or other construction, professional, or administrative costs (collectively, the "Improvements") until such time as it issues bonds or secures alternative financing; and

WHEREAS, in order to induce the District to proceed at this time with the construction of the necessary or desired improvements, the Developer desires to provide the funds necessary to enable the District to proceed with such improvements; and

WHEREAS, the District anticipates accessing the public bond market in the future to obtain financing for the construction of the Improvements as described in Exhibit A, and the

parties agree that, in the event that bonds are issued, the funds provided under this Agreement will be reimbursable from those bonds.

Now, THEREFORE, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

- 1. **RECITALS.** The recitals stated above are true and correct and by this reference are incorporated herein and form a material part of this Agreement.
- 2. FUNDING. Developer agrees to make available to the District such monies as are necessary to enable the District to proceed with the design, engineering, and construction of the infrastructure improvements. Developer will make such funds available on a monthly basis, within fifteen (15) days of a written request by the District. The funds shall be placed in the District's construction account with such depository as determined by the District.

3. REPAYMENT.

- A. The parties agree that the funds provided by Developer pursuant to this Agreement will be properly reimbursable from proceeds of the District's issuance of tax-exempt bonds. Within forty-five (45) days of receipt from time to time of sufficient funds by the District for the financing of some or all of the Improvements, the District shall reimburse Developer until full reimbursement is made or until all funds generated by the anticipated financing are exhausted, exclusive of interest, for the funds advanced under Section 2 above; provided, however, that in the event bond counsel engaged in connection with the District's issuance of bonds providing such financing determines that any such monies advanced or expenses incurred are not properly reimbursable for any reason, including, but not limited to federal tax restrictions imposed on tax-exempt financing, the District shall not be obligated to reimburse such monies advanced or expenses incurred.
- B. If the District does not or cannot issue bonds to provide the funds for the Improvements within five (5) years of the date of this Agreement, and, thus does not reimburse the Developer for the funds advanced, then the parties agree that such funds shall be deemed paid in lieu of taxes, fees, or assessments which might be levied or imposed by the District.
- C. Notwithstanding the foregoing, the parties acknowledge that \$374,000 in costs under the Agreement between Owner and Contractor for Construction Contract (Stipulated Price) Master Infrastructure Project, dated May 20, 2024, are for private improvements and shall not be subject to reimbursement from any public funds. The Developer agrees to make such funds available to the District on a monthly basis, within fifteen (15) days of a written request by the District.
- 4. **DEFAULT**. A default by either party to this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of actual damages, injunctive relief and/or specific performance, but shall exclude, in any event, consequential, incidental, special or punitive damages.

- 5. ENFORCEMENT OF AGREEMENT. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the substantially prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings.
- **6. AGREEMENT.** This Agreement shall constitute the final and complete expression of the agreement between the parties relating to the specific subject matter of this Agreement.
- 7. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both of the parties hereto.
- **8. AUTHORIZATION.** The execution of this Agreement has been duly authorized by the appropriate body or official of all parties hereto, each party has complied with all of the requirements of law, and each party has full power and authority to comply with the terms and provisions of this Agreement.
- **9. NOTICES.** All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. If to District: Woodland Ranch Estates Community Development District

219 East Livingston Street Orlando, Florida 32801 Attn: District Manager

With a copy to: Kilinski | Van Wyk PLLC

517 E. College Avenue Tallahassee, Florida 32301 Attn: District Counsel

B. If to Developer: Center State Development LLC

4900 Dundee Road

Winter Haven, Florida 33884

Attn:

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the parties may deliver Notice on behalf of the party he/she represents. Any party or other person to whom Notices are to be sent or copied may notify the

other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days' written notice to the parties and addressees set forth herein.

- 10. THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the parties hereto any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the parties hereto and their respective representatives, successors and assigns.
- 11. ASSIGNMENT. Neither party may assign this Agreement or any monies to become due hereunder without the prior written approval of the other party.
- 12. CONTROLLING LAW. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida.
- 13. **EFFECTIVE DATE.** The Agreement shall be effective after execution by all parties hereto and shall remain in effect unless terminated by any of the parties hereto.
- 14. PUBLIC RECORDS. Developer understands and agrees that all documents of any kind provided to the District or to District staff in connection with the work contemplated under this Agreement are public records and are treated as such in accordance with Florida law and the District's Record Retention Schedule.
- 15. COUNTERPARTS. This Agreement may be executed in one or more counterparts which, when taken together, shall constitute one and the same instrument.

[Signatures on next page]

IN WITNESS WHEREOF, the parties execute this Agreement to be effective the day and year first written above.

ATTEST:	WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT
Secretary/Assistant Secretary	Vice/Chairperson, Board of Supervisors
WITNESS: Print Name: Breft Elligh	CENTER STATE DEVELOPMENT, LLC, a Florida limited liability company By: HRB LAND INVESTMENTS, LLC, its Manager
	By:

EXHIBIT A

SECTION VIII

WOODLAND RANCH ESTATES
COMMUNITY DEVELOPMENT DISTRICT
TOWN OF DUNDEE, FLORIDA
FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED
SEPTEMBER 30, 2023

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA

TABLE OF CONTENTS

	Page
INDEPENDENT AUDITOR'S REPORT	1-2
MANAGEMENT'S DISCUSSION AND ANALYSIS	3-5
BASIC FINANCIAL STATEMENTS Government-Wide Financial Statements:	
Statement of Net Position Statement of Activities	6 7
Fund Financial Statements: Balance Sheet – Governmental Funds	8
Reconciliation of the Balance Sheet – Governmental Funds to the Statement of Net Position	9
Statement of Revenues, Expenditures and Changes in Fund Balances –	
Governmental Funds Reconciliation of the Statement of Revenues, Expenditures and Changes in	10
Fund Balances of Governmental Funds to the Statement of Activities Notes to Financial Statements	11 12-17
REQUIRED SUPPLEMENTARY INFORMATION Schedule of Revenues, Expenditures and Changes in Fund Balance –	
Budget and Actual – General Fund Notes to Required Supplementary Information	18 19
OTHER INFORMATION	00
Data Elements Required by Florida Statute 218.39(3)(c)	20
INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH	
GOVERNMENT AUDITING STANDARDS	21-22
INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH THE REQUIREMENTS OF SECTION 218.415, FLORIDA STATUTES, REQUIRED BY RULE 10.556(10) OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA	23
MANAGEMENT LETTER REQUIRED BY CHAPTER 10.550 OF THE RULES OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA	24-25



951 Yamato Road • Suite 280 Boca Raton, Florida 33431 (561) 994-9299 • (800) 299-4728 Fax (561) 994-5823 www.graucpa.com

INDEPENDENT AUDITOR'S REPORT

To the Board of Supervisors Woodland Ranch Estates Community Development District Town of Dundee, Florida

Report on the Audit of the Financial Statements

Opinions

We have audited the accompanying financial statements of the governmental activities and each major fund of Woodland Ranch Estates Community Development District, Town of Dundee, Florida ("District") as of and for the fiscal year ended September 30, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of the District as of September 30, 2023, and the respective changes in financial position thereof for the fiscal year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the District and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

The District's management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America; and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to
 fraud or error, and design and perform audit procedures responsive to those risks. Such
 procedures include examining, on a test basis, evidence regarding the amounts and disclosures
 in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit
 procedures that are appropriate in the circumstances, but not for the purpose of expressing an
 opinion on the effectiveness of the District's internal control. Accordingly, no such opinion is
 expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant
 accounting estimates made by management, as well as evaluate the overall presentation of the
 financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information Included in the Financial Report

Management is responsible for the other information included in the financial report. The other information comprises the information for compliance with FL Statute 218.39 (3) (c) but does not include the financial statements and our auditor's report thereon. Our opinions on the financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated May 31, 2024, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

MANAGEMENT'S DISCUSSION AND ANALYSIS

Our discussion and analysis of Woodland Ranch Estates Community Development District, Town of Dundee, Florida ("District") provides a narrative overview of the District's financial activities for the fiscal year ended September 30, 2023. Please read it in conjunction with the District's Independent Auditor's Report, basic financial statements, accompanying notes and supplementary information to the basic financial statements.

The District was established pursuant to the Uniform Community Development District Act of 1980, otherwise known as Chapter 190, Florida Statutes and created by Ordinance No. 22-26 of the Town of Dundee, Florida enacted on September 14, 2022 and no audit was required for the prior period. As a result, the balances as of and for the period ended September 30, 2022 are for less than an twelve month period and are unaudited.

FINANCIAL HIGHLIGHTS

- The assets of the District exceeded its liabilities at the close of the most recent fiscal year resulting in a net position balance of \$8,610.
- The change in the District's total net position in comparison with the prior fiscal year was \$17,530, an increase. The key components of the District's net position and change in net position are reflected in the table in the government-wide financial analysis section.
- At September 30, 2023, the District's governmental funds reported combined ending fund balances of \$22,451. The total fund balance is unassigned fund balance which is available for spending at the District's discretion.

OVERVIEW OF FINANCIAL STATEMENTS

This discussion and analysis are intended to serve as the introduction to the District's financial statements. The District's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business.

The statement of net position presents information on all the District's assets, deferred outflows of resources, liabilities, and deferred inflows of resources with the residual amount being reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The statement of activities presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

The government-wide financial statements include all governmental activities that are principally supported by Developer contributions. The District does not have any business-type activities. The governmental activities of the District include the general government (management) function.

OVERVIEW OF FINANCIAL STATEMENTS (Continued)

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The District, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The District has one fund category: governmental funds.

Governmental Funds

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a District's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the District's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balance provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The District maintains two governmental fund for external reporting. Information is presented separately in the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund and capital projects fund, both of which are considered major funds.

The District adopts an annual appropriated budget for its general fund. A budgetary comparison schedule has been provided for the general fund to demonstrate compliance with the budget.

Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net position may serve over time as a useful indicator of an entity's financial position. In the case of the District, assets exceeded liabilities at the close of the most recent fiscal year.

Key components of the District's net position are reflected in the following table:

NET POSITION SEPTEMBER 30.

		2022
 2023		(unaudited)
\$ 26,561	\$	2,732
 26,561		2,732
4,110		11,652
 13,841		-
 17,951		11,652
 8,610		(8,920)
\$ 8,610	\$	(8,920)
\$	\$ 26,561 26,561 4,110 13,841 17,951	\$ 26,561 \$ 26,561 4,110 13,841 17,951 8,610

GOVERNMENT-WIDE FINANCIAL ANALYSIS (Continued)

The District's net position increased during the most recent fiscal year. The majority of the increase represents the extent to which ongoing program revenues exceeded the cost of operations.

Key elements of the change in net position are reflected in the following table:

CHANGES IN NET POSITION FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023, AND FOR THE PERIOD FROM INCEPTION SEPTEMBER 14, 2022 THROUGH SEPTEMBER 30, 2022

				2022		
	2023			(unaudited)		
Revenues:						
Program revenues						
Operating grants and contributions	\$	74,250	\$	-		
Capital grants and contributions		-		2,732		
Total revenues		74,250		2,732		
Expenses:						
General government		43,033		8,920		
Bond issue costs		13,687		2,732		
Total expenses	56,720		11,652			
Change in net position	17,530			(8,920)		
Net position - beginning		(8,920)		-		
Net position - ending	\$	8,610	\$	(8,920)		

As noted above and in the statement of activities, the cost of all governmental activities during the fiscal year ended September 30, 2023 was \$56,720. The costs of the District's activities were funded by program revenues which were comprised of Developer contributions.

GENERAL BUDGETING HIGHLIGHTS

An operating budget was adopted and maintained by the governing board for the District pursuant to the requirements of Florida Statutes. The budget is adopted using the same basis of accounting that is used in preparation of the fund financial statements. The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. Actual general fund expenditures did not exceed appropriations for the fiscal year ended September 30, 2023.

ECONOMIC FACTORS AND NEXT YEAR'S BUDGETS AND OTHER EVENTS

For the subsequent fiscal year, the District anticipates that the cost of general operations will remain increase as activities increase. The Board is in discussion to issue Bonds in order to finance the construction and acquisition of infrastructure for the benefit of the District.

CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, land owners, customers, investors and creditors with a general overview of the District's finances and to demonstrate the District's accountability for the financial resources it manages and the stewardship of the facilities it maintains. If you have questions about this report or need additional financial information, contact the Woodland Ranch Estates Community Development District's Finance Department at 219 E. Livingston Street, Orlando, FL 32801.

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA STATEMENT OF NET POSITION SEPTEMBER 30, 2023

	 ernmental ctivities
ASSETS	
Cash and cash equivalents	\$ 1,407
Due from Developer	 25,154
Total assets	26,561
LIABILITIES	
Accounts payable	4,110
Non-current liabilities:	
Due in more than one year	13,841
Total liabilities	 17,951
NET POSITION	
Unrestricted	8,610
Total net position	\$ 8,610

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA STATEMENT OF ACTIVITIES FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

				ogram venues	Re Cha	(Expense) venue and inges in Net Position
				ting Grants	·	POSITION
			and		Governmental	
Functions/Programs	Expenses		Contributions		Activities	
Primary government:						_
Governmental activities:						
General government	\$	43,033	\$	74,250	\$	31,217
Bond issue costs		13,687		-		(13,687)
Total governmental activities		56,720		74,250		17,530
	Change in net position					17,530
	Net position - beginning					(8,920)
	Net p	oosition - er	nding		\$	8,610

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA BALANCE SHEET GOVERNMENTAL FUNDS SEPTEMBER 30, 2023

	Major Funds				Total	
	Capita			apital	Governmental	
		Seneral	Projects		Funds	
ASSETS						_
Cash and cash equivalents	\$	1,407	\$	-	\$	1,407
Due from Developer		25,000		154		25,154
Total assets	\$	26,407	\$	154	\$	26,561
LIABILITIES, AND FUND BALANCES Liabilities: Accounts payable Total liabilities	\$	3,956 3,956	\$	154 154	\$	4,110 4,110
Fund balances: Unassigned Total fund balances		22,451 22,451		<u>-</u>		22,451 22,451
Total liabilities and fund balances	\$	26,407	\$	154	\$	26,561

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA RECONCILIATION OF THE BALANCE SHEET - GOVERNMENTAL FUNDS TO THE STATEMENT OF NET POSITION SEPTEMBER 30, 2023

Fund balance - governmental funds	\$	22,451
Amounts reported for governmental activities in the statement of net position are different because:		
Liabilities not due and payable from current available resources are not reported as liabilities in the governmental fund statements. All liabilities, both current and long-term, are reported in the government-wide financial statements.		
Developer advances	(13,841)	(13,841)
Net position of governmental activities	\$	8,610

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES GOVERNMENTAL FUNDS FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	Major Funds					Total	
		Capital				Governmental	
	G	General	F	Projects		Funds	
REVENUES							
Developer contributions	\$	74,250	\$	-	\$	74,250	
Total revenues		74,250		-		74,250	
EXPENDITURES							
Current:							
General government		42,879		154		43,033	
Bond issuance costs		-		13,687		13,687	
Total expenditures		42,879		13,841		56,720	
Excess (deficiency) of revenues							
over (under) expenditures		31,371		(13,841)		17,530	
OTHER FINANCING SOURCES (USES)							
Developer advances		-		13,841		13,841	
Total other financing sources (uses)		-		13,841		13,841	
Net change in fund balances		31,371				31,371	
Net change in fund balances		31,371		-		31,371	
Fund balances - beginning		(8,920)		-		(8,920)	
Fund balances - ending	\$	22,451	\$	-	\$	22,451	

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA

RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

Net change in fund balances - total governmental funds	\$ 31,371
Amounts reported for governmental activities in the statement of activities are different because:	
Governmental funds report Developer advances as financial resources, whereas these amounts are eliminated in the statement of activities and recognized as long-term liabilities in the statement of net position.	(13,841)
Change in net position of governmental activities	\$ 17,530

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA NOTES TO FINANCIAL STATEMENTS

NOTE 1 - NATURE OF ORGANIZATION AND REPORTING ENTITY

Woodland Ranch Estates Community Development District (the "District") was established by the Town Commission of the Town of Dundee Ordinance No. 22-26 effective on September 14, 2022 pursuant to the Uniform Community Development District Act of 1980, otherwise known as Chapter 190, Florida Statutes. The Act provides among other things, the power to manage basic services for community development, power to borrow money and issue bonds, and to levy and assess non-ad valorem assessments for the financing and delivery of capital infrastructure.

The District was established for the purposes of financing and managing the acquisition, construction, maintenance and operation of a portion of the infrastructure necessary for community development within the District.

The District is governed by the Board of Supervisors ("Board"), which is composed of five members. The Supervisors are elected on an at large basis by the owners of the property within the District. The Board exercises all powers granted to the District pursuant to Chapter 190, Florida Statutes. As of September 30, 2023, all of the Board members are affiliated with Woodland Ranch Estate, LLC ("Developer").

The Board has the responsibility for:

- 1. Allocating and levying assessments.
- 2. Approving budgets.
- 3. Exercising control over facilities and properties.
- 4. Controlling the use of funds generated by the District.
- 5. Approving the hiring and firing of key personnel.
- 6. Financing improvements.

The financial statements were prepared in accordance with Governmental Accounting Standards Board ("GASB") Statements. Under the provisions of those standards, the financial reporting entity consists of the primary government, organizations for which the District is considered to be financially accountable and other organizations for which the nature and significance of their relationship with the District are such that, if excluded, the financial statements of the District would be considered incomplete or misleading. There are no entities considered to be component units of the District; therefore, the financial statements include only the operations of the District.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Government-Wide and Fund Financial Statements

The basic financial statements include both government-wide and fund financial statements.

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all of the non-fiduciary activities of the primary government. For the most part, the effect of interfund activity has been removed from these statements.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include: 1) charges to customers who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment; operating-type special assessments for maintenance and debt service are treated as charges for services and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Other items not included among program revenues are reported instead as *general revenues*.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement* focus and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Assessments are recognized as revenues in the year for which they are levied. Grants and similar items are to be recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures are recorded only when payment is due.

<u>Assessments</u>

Assessments are non-ad valorem assessments on benefited property within the District. Operating and maintenance assessments are based upon the adopted budget and levied annually at a public hearing of the District. Debt service assessments are levied when Bonds are issued and assessed and collected on an annual basis. The District may collect assessments directly or utilize the uniform method of collection under Florida Statutes. Direct collected assessments are due as determined by annual assessment resolution adopted by the Board of Supervisors. Assessments collected under the uniform method are mailed by the County Tax Collector on November 1 and due on or before March 31 of each year. Property owners may prepay a portion or all of the debt service assessments on their property subject to various provisions in the Bond documents.

Assessments and interest associated with the current fiscal period are considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. The portion of assessments receivable due within the current fiscal period is considered to be susceptible to accrual as revenue of the current period.

The District reports the following major governmental funds:

General Fund

The general fund is the general operating fund of the District. It is used to account for all financial resources except those required to be accounted for in another fund.

Capital Projects Fund

This fund accounts for the financial resources to be used for the acquisition or construction of major infrastructure within the District.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements.

When both restricted and unrestricted resources are available for use, it is the government's policy to use restricted resources first for qualifying expenditures, then unrestricted resources as they are needed.

Assets, Liabilities and Net Position or Equity

Restricted Assets

These assets represent cash and investments set aside pursuant to Bond covenants or other contractual restrictions.

Deposits and Investments

The District's cash and cash equivalents are considered to be cash on hand and demand deposits (interest and non-interest bearing).

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities and Net Position or Equity (Continued)

<u>Deposits and Investments (Continued)</u>

The District has elected to proceed under the Alternative Investment Guidelines as set forth in Section 218.415 (17) Florida Statutes. The District may invest any surplus public funds in the following:

- a) The Local Government Surplus Trust Funds, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act;
- b) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency;
- c) Interest bearing time deposits or savings accounts in qualified public depositories;
- d) Direct obligations of the U.S. Treasury.

Securities listed in paragraph c and d shall be invested to provide sufficient liquidity to pay obligations as they come due.

The District records all interest revenue related to investment activities in the respective funds. Investments are measured at amortized cost or reported at fair value as required by generally accepted accounting principles.

Prepaid Items

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements.

Capital Assets

Capital assets which include property, plant and equipment, and infrastructure assets (e.g., roads, sidewalks and similar items) are reported in the government activities columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of two years. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at acquisition value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. Major outlays for capital assets and improvements are capitalized as projects are constructed.

<u>Unearned Revenue</u>

Governmental funds report unearned revenue in connection with resources that have been received, but not yet earned.

Long-Term Obligations

In the government-wide financial statements long-term debt and other long-term obligations are reported as liabilities in the statement of net position. Bond premiums and discounts are deferred and amortized over the life of the Bonds. Bonds payable are reported net of applicable premiums or discounts. Bond issuance costs are expensed when incurred.

In the fund financial statements, governmental fund types recognize premiums and discounts, as well as issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Assets, Liabilities and Net Position or Equity (Continued)

<u>Deferred Outflows/Inflows of Resources</u>

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time.

Fund Equity/Net Position

In the fund financial statements, governmental funds report non spendable and restricted fund balance for In the fund financial statements, governmental funds report non spendable and restricted fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Assignments of fund balance represent tentative management plans that are subject to change.

The District can establish limitations on the use of fund balance as follows:

<u>Committed fund balance</u> – Amounts that can be used only for the specific purposes determined by a formal action (resolution) of the Board of Supervisors. Commitments may be changed or lifted only by the Board of Supervisors taking the same formal action (resolution) that imposed the constraint originally. Resources accumulated pursuant to stabilization arrangements sometimes are reported in this category.

<u>Assigned fund balance</u> – Includes spendable fund balance amounts established by the Board of Supervisors that are intended to be used for specific purposes that are neither considered restricted nor committed. The Board may also assign fund balance as it does when appropriating fund balance to cover differences in estimated revenue and appropriations in the subsequent year's appropriated budget. Assignments are generally temporary and normally the same formal action need not be taken to remove the assignment.

The District first uses committed fund balance, followed by assigned fund balance and then unassigned fund balance when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

Net position is the difference between assets and deferred outflows of resources less liabilities and deferred inflows of resources. Net position in the government-wide financial statements are categorized as net investment in capital assets, restricted or unrestricted. Net investment in capital assets represents net position related to infrastructure and property, plant and equipment. Restricted net position represents the assets restricted by the District's Bond covenants or other contractual restrictions. Unrestricted net position consists of the net position not meeting the definition of either of the other two components.

Other Disclosures

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from those estimates.

NOTE 3 - BUDGETARY INFORMATION

The District is required to establish a budgetary system and an approved Annual Budget. Annual Budgets are adopted on a basis consistent with generally accepted accounting principles for the general fund. All annual appropriations lapse at fiscal year-end.

The District follows these procedures in establishing the budgetary data reflected in the financial statements.

- a) Each year the District Manager submits to the District Board a proposed operating budget for the fiscal year commencing the following October 1.
- b) Public hearings are conducted to obtain comments.
- c) Prior to October 1, the budget is legally adopted by the District Board.
- d) All budget changes must be approved by the District Board.
- e) The budgets are adopted on a basis consistent with generally accepted accounting principles.
- f) Unused appropriations for annually budgeted funds lapse at the end of the year.

NOTE 4 - DEPOSITS

The District's cash balances were entirely covered by federal depository insurance or by a collateral pool pledged to the State Treasurer. Florida Statutes Chapter 280, "Florida Security for Public Deposits Act", requires all qualified depositories to deposit with the Treasurer or another banking institution eligible collateral equal to various percentages of the average daily balance for each month of all public deposits in excess of any applicable deposit insurance held. The percentage of eligible collateral (generally, U.S. Governmental and agency securities, state or local government debt, or corporate bonds) to public deposits is dependent upon the depository's financial history and its compliance with Chapter 280. In the event of a failure of a qualified public depository, the remaining public depositories would be responsible for covering any resulting losses.

NOTE 5 - CAPITAL ASSETS

The infrastructure intended to serve the District has been estimated at a total cost of approximately \$16,229,400. A portion of the project costs was expected to be financed with the proceeds from the issuance of Bonds with the remainder to be funded by the Developer and conveyed to the District. Upon completion, certain improvements are to be conveyed to others for ownership and maintenance responsibilities.

NOTE 6 - LONG-TERM LIABILITIES

During the current year the Developer advanced the District \$13,841, to provide funding for expenses that will be reimbursed from a future Bond issuance.

Changes in long-term liability activity for the fiscal year ended September 30, 2023 were as follows:

	Be	ginning						Ending	Dι	ıe Within
	Ba	alance	P	Additions	Red	ductions	E	Balance	С	ne Year
Governmental activities										<u>.</u>
Developer advances	\$	-	\$	13,841	\$	-	\$	13,841	\$	
Total	\$	=	\$	13,841	\$	-	\$	13,841	\$	-

NOTE 7 - DEVELOPER TRANSACTIONS

The Developer has agreed to fund the general operations of the District. In connection with that agreement, Developer contributions to the general fund were \$74,250, which includes a receivable of \$25,000 as of September 30, 2023.

NOTE 8 - CONCENTRATION

The District's activity is dependent upon the continued involvement of the Developer and major landowners, the loss of which could have a material adverse effect on the District's operations.

NOTE 9 - MANAGEMENT COMPANY

The District has contracted with a management company to perform services which include financial and accounting advisory services. Certain employees of the management company also serve as officers of the District. Under the agreement, the District compensates the management company for management, accounting, financial reporting, computer and other administrative costs.

NOTE 10 - RISK MANAGEMENT

The District is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. The District has obtained commercial insurance from independent third parties to mitigate the costs of these risks; coverage may not extend to all situations. There were no settled claims since inception of the District.

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL – GENERAL FUND FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	•	ed Amounts nal & Final	 Actual mounts	Fina F	iance with al Budget - Positive legative)
REVENUES					
Developer Contributions	\$	159,010	\$ 74,250	\$	(84,760)
Total revenues		159,010	74,250		(84,760)
EXPENDITURES Current: General government Maintenance and operations Total expenditures		134,010 25,000 159,010	42,879 - 42,879		91,131 25,000 116,131
Excess (deficiency) of revenues over (under) expenditures	\$	-	31,371	\$	31,371
Fund balance - beginning			 (8,920)		
Fund balance - ending			\$ 22,451		

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA NOTES TO REQUIRED SUPPLEMENTARY INFORMATION

The District is required to establish a budgetary system and an approved Annual Budget for the general fund. The District's budgeting process is based on estimates of cash receipts and cash expenditures which are approved by the Board. The budget approximates a basis consistent with accounting principles generally accepted in the United States of America (generally accepted accounting principles).

The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. Actual general fund expenditures did not exceed appropriations for the fiscal year ended September 30, 2023.

WOODLAND RANCH ESTATES COMMUNITY DEVELOPMENT DISTRICT TOWN OF DUNDEE, FLORIDA OTHER INFORMATION – DATA ELEMENTS REQUIRED BY FL STATUTE 218.39(3)(C) FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023 UNAUDITED

<u>Element</u>	<u>Comments</u>
Number of District employees compensated in the last pay period of he District's fiscal year being reported.	
Number of independent contractors compensated to whom nonemployee compensation was paid in the last month of the District's fiscal year being reported.	0
Employee compensation	\$ 56,541.64
Independent contractor compensation	-
Construction projects to begin on or after October 1; (\$65K)	Not applicable
Budget variance report	See the Schedule of Revenues, Expenditures and Changes in Fund Balance - Budget and Actual - General Fund
Ad Valorem taxes;	Not applicable
Non ad valorem special assessments;	Not applicable
Special assessment rate	Operations and maintenance - Not applicable Debt service - Not applicable
Special assessments collected	-
Outstanding Bonds:	Not applicable



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INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Board of Supervisors Woodland Ranch Estates Community Development District Town of Dundee, Florida

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities and the major fund of Woodland Ranch Estates Community Development District, Town of Dundee, Florida ("District") as of and for the fiscal year ended September 30, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our opinion thereon dated May 31, 2024.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

May 31, 2024



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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH THE REQUIREMENTS OF SECTION 218.415, FLORIDA STATUTES, REQUIRED BY RULE 10.556(10) OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA

To the Board of Supervisors Woodland Ranch Estates Community Development District Town of Dundee, Florida

We have examined Woodland Ranch Estates Community Development District, Town of Dundee, Florida's ("District") compliance with the requirements of Section 218.415, Florida Statutes, in accordance with Rule 10.556(10) of the Auditor General of the State of Florida during the fiscal year ended September 30, 2023. Management is responsible for District's compliance with those requirements. Our responsibility is to express an opinion on District's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the District complied, in all material respects, with the specified requirements referenced in Section 218.415, Florida Statutes. An examination involves performing procedures to obtain evidence about whether the District complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion. Our examination does not provide a legal determination on the District's compliance with specified requirements.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the examination engagement.

In our opinion, the District complied, in all material respects, with the aforementioned requirements for the fiscal year ended September 30, 2023.

This report is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, management, and the Supervisors of Woodland Ranch Estates Community Development District, Town of Dundee, Florida and is not intended to be and should not be used by anyone other than these specified parties.

May 31, 2024



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MANAGEMENT LETTER PURSUANT TO THE RULES OF THE AUDITOR GENERAL FOR THE STATE OF FLORIDA

To the Board of Supervisors Woodland Ranch Estates Community Development District Town of Dundee, Florida

Report on the Financial Statements

We have audited the accompanying basic financial statements of Woodland Ranch Estates Community Development District, Town of Dundee, Florida ("District") as of and for fiscal year ended September 30, 2023, and have issued our report thereon dated May 31, 2024.

Auditor's Responsibility

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and Chapter 10.550, Rules of the Florida Auditor General.

Other Reporting Requirements

We have issued our Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with *Government Auditing Standards*; and Independent Auditor's Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, Rules of the Auditor General. Disclosures in those reports, which are dated May 31, 2024, should be considered in conjunction with this management letter.

Purpose of this Letter

The purpose of this letter is to comment on those matters required by Chapter 10.550 of the Rules of the Auditor General for the State of Florida. Accordingly, in connection with our audit of the financial statements of the District, as described in the first paragraph, we report the following:

- I. Current year findings and recommendations.
- II. Status of prior year findings and recommendations.
- III. Compliance with the Provisions of the Auditor General of the State of Florida.

Our management letter is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, Federal and other granting agencies, as applicable, management, and the Board of Supervisors of Woodland Ranch Estates Community Development District, Town of Dundee, Florida and is not intended to be and should not be used by anyone other than these specified parties.

We wish to thank Woodland Ranch Estates Community Development District, Town of Dundee, Florida and the personnel associated with it, for the opportunity to be of service to them in this endeavor as well as future engagements, and the courtesies extended to us.

May 31, 2024

REPORT TO MANAGEMENT

I. CURRENT YEAR FINDINGS AND RECOMMENDATIONS

None

II. PRIOR YEAR FINDINGS AND RECOMMENDATIONS

Not applicable. First year audit.

III. COMPLIANCE WITH THE PROVISIONS OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA

Unless otherwise required to be reported in the auditor's report on compliance and internal controls, the management letter shall include, but not be limited to the following:

1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report.

Not applicable. First year audit.

2. Any recommendations to improve the local governmental entity's financial management.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported for the fiscal year ended September 30, 2023.

3. Noncompliance with provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but which warrants the attention of those charged with governance.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported, for the fiscal year ended September 30, 2023.

- 4. The name or official title and legal authority of the District are disclosed in the notes to the financial statements.
- 5. The District has not met one or more of the financial emergency conditions described in Section 218.503(1), Florida Statutes.
- 6. We applied financial condition assessment procedures and no deteriorating financial conditions were noted. It is management's responsibility to monitor financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same.
- 7. Management has provided the specific information required by Section 218.39(3)(c) in the Other Information section of the financial statements on page 20.

SECTION IX

SECTION C

SECTION 1

Community Development District

Bill to:

Woodland Ranch Estates, LLC 4900 Dundee Rd Winter Haven, FL 33884 Funding Request #10 January 10, 2024

General Fund

	Payee	FY2024
1	Governmental Management Services	
	Invoice #8 - Management fees - January 2024	0
2	Grau & Associates	
	Invoice # 25036 - Audit Services - December 2023	\$ 3,000.00
3	Kilinski Van Wyk, PLLC	
	Invoice # 8284 - General Counsel - November 2023	\$ 583.00

Total: \$ 3,583.00

Please make check payable to:

Woodland Ranch Estates

6200 Lee Vista Blvd, Suite 300 Orlando, FL 32822

Community Development District

Bill to:

Woodland Ranch Estates, LLC 4900 Dundee Rd Winter Haven, FL 33884 Funding Request #11

January 22, 2024

	Payee	 neral Fund FY2024
1	Hunter Engineering, Inc. Invoice # 22185 - General Engineering - October 2023	\$ 125.00
2	Kilinski Van Wyk, PLLC Invoice # 8515 - General Counsel - December 2023	\$ 219.00

Total: \$ 344.00

Please make check payable to:

Woodland Ranch Estates

6200 Lee Vista Blvd, Suite 300 Orlando, FL 32822

Community Development District

Bill to:

Woodland Ranch Estates, LLC 4900 Dundee Rd Winter Haven, FL 33884 Funding Request #12 February 16,2024

General Fund

Payee

FY2024

1 Kilinski | Van Wyk, PLLC

Invoice #8782 - General Counsel - January 2024

\$

319.50

Total:

\$

319.50

Please make check payable to:

Woodland Ranch Estates

6200 Lee Vista Blvd, Suite 300 Orlando, FL 32822

Community Development District

Bill to:

Woodland Ranch Estates, LLC 4900 Dundee Rd Winter Haven, FL 33884 Funding Request #13 April 17,2024

Payee General Fund

1 Operations & Maintenance Funding

\$ 20,000.00

\$ 20,000.00

Total: \$ 20,000.00

Please make check payable to:

Woodland Ranch Estates

6200 Lee Vista Blvd, Suite 300 Orlando, FL 32822

SECTION 2

Woodland Ranch Estates Community Development District

<u>Summary of Invoices</u>

April 1, 2024 to June 25, 2024

Fund	Date	Check No.'s	Amount
General Fund			
	4/26/24	35-36	\$ 3,492.00
	5/3/24	37	\$ 250.00
	5/10/24	38-39	\$ 3,752.47
	5/17/24	40	\$ 1,254.84
	6/4/24	41	\$ 851.00
	6/18/24	42	\$ 3,377.69
Total			\$ 12,978.00

AP300R YEAR-TO-DAT	E ACCOUNTS PAYABLE PREPAID/COMPUTER CHECK REGISTER RUN 6/27/24	PAGE	1
*** CHECK DATES 04/01/2024 - 06/25/2024 ***	WOODLAND RANCH ESTATE-GENERAL		
	BANK A GENERAL FUND		

	BANK A GENERAL FUND			
CHECK VEND# DATE	INVOICEEXPENSED TO VENDOR NAME DATE INVOICE YRMO DPT ACCT# SUB SUBCLASS	STATUS	AMOUNT	CHECK AMOUNT #
4/26/24 00001	4/01/24 9 202404 310-51300-34000	*	3,125.00	
	MANAGEMENT FEES-APR24 4/01/24 9 202404 310-51300-35200	*	100.00	
	WEBSITE MANAGEMENT-APR24 4/01/24 9 202404 310-51300-35100 INFORMATION TECH-APR24	*	150.00	
	GOVERNMENTAL MANAGEMENT SERVICES	3		3,375.00 000035
4/26/24 00002	4/17/24 9262 202403 310-51300-31500 ATTORNEY SVCS-MAR24	*	117.00	
	KILINSKI VAN WYK, PLLC			117.00 000036
5/03/24 00005	4/30/24 22242 202404 310-51300-31100 BOS MEETING-04/08/24	*	250.00	
	HUNTER ENGINEERING, INC.			250.00 000037
5/10/24 00009	4/30/24 00063960 202404 310-51300-48000 NOTICE OF BOS MEETING	*	373.62	
	GANNETT MEDIA CORP DBA			373.62 000038
5/10/24 00001	5/01/24 10 202405 310-51300-34000 MANAGEMENT FEES-MAY24	*	3,125.00	
	5/01/24 10 202405 310-51300-35200 WEBSITE MANAGEMENT-MAY24	*	100.00	
	5/01/24 10 202405 310-51300-35100 INFORMATION TECH-MAY24	*	150.00	
	5/01/24 10 202405 310-51300-51000 OFFICE SUPPLIES	*	2.56	
	5/01/24 10 202405 310-51300-42000 POSTAGE	*	1.29	
	GOVERNMENTAL MANAGEMENT SERVICES	3		3,378.85 000039
5/17/24 00002	5/12/24 9451 202404 310-51300-31500 ATTORNEY SVCS-APR24		1,254.84	
	KILINSKI VAN WYK, PLLC			1,254.84 000040
6/04/24 00002	5/15/24 9485 202406 300-20700-10200 031 FR#3	*	851.00	
	KILINSKI VAN WYK, PLLC			851.00 000041
6/18/24 00001	6/01/24 11 202406 310-51300-34000	*	3,125.00	
	MANAGEMENT FEES-JUN24 6/01/24 11	*	100.00	
	WEBSITE MANAGEMENT-JUN24 6/01/24 11 202406 310-51300-35100 INFORMATION TECH-JUN24	*	150.00	

WRES WOODLAND RANCH NSOLER

*** CHECK DATES 04/01/2024 - 06/25/2024 *** WG	ACCOUNTS PAYABLE PREPAID/COMPUTER C OODLAND RANCH ESTATE-GENERAL ANK A GENERAL FUND	HECK REGISTER R	UN 6/27/24	PAGE 2
CHECK VEND#INVOICEEXPENSED TO DATE DATE INVOICE YRMO DPT ACCT# S		STATUS	AMOUNT	CHECK AMOUNT #
6/01/24 11 202406 310-51300-9	51000	*	.12	
OFFICE SUPPLIES 6/01/24 11 202406 310-51300-4 POSTAGE	42000	*	2.57	
POSTAGE	GOVERNMENTAL MANAGEMENT SERVICES			3,377.69 000042
	TOTAL FOR BANK	. A	12,978.00	
	TOTAL FOR REGI	STER	12,978.00	

WRES WOODLAND RANCH NSOLER

SECTION 3

Community Development District

Unaudited Financial Reporting May 31, 2024



Table of Contents

1	Balance Sheet
2	General Fund
3	Capital Projects Fund
4	Month to Month

Community Development District Combined Balance Sheet May 31, 2024

		, ,		m , 1		
	C	General	Totals Governmental Funds			
		Fund	Govern	mentai Funas		
Assets:						
Operating Account	\$	16,703	\$	16,703		
Due From Developer	\$	-	\$	851		
Due from Other	\$	_	\$	-		
Prepaid Expense	\$	_	\$	_		
Due From General Fund	\$	_	\$	_		
Investments:	Ψ		Ψ			
Series 2020						
Reserve	\$	_	\$	_		
Interest	\$	_	\$	-		
Revenue	\$	_	\$	_		
Prepayment	\$	_	\$	_		
Construction	\$	_	\$	_		
Cost of Issuance	\$	_	\$	_		
Cost of issuance	Ψ		Ψ			
Total Assets	\$	16,703	\$	17,554		
10411000	Ψ	10,700	Ψ	17,001		
Liabilities:						
Accounts Payable	\$	-	\$	-		
Contracts Payable	\$	-	\$	851		
Retainage Payable	\$	-	\$	-		
Due To Debt Service	\$	-	\$	-		
Due To Capital Project	\$	-	\$	-		
Due To Developer	\$	-	\$	-		
Due to General Fund	\$	-	\$	-		
Due to Other	\$	-	\$	-		
Deferred Revenue	\$	_	\$	_		
Deferred Revenue	Ψ		Ψ			
Total Liabilities	\$	-	\$	851		
Fund Balances:						
Nonspendable:						
Deposits and Prepaid Items	\$	-	\$	-		
Restricted for:						
Capital Projects	\$	-	\$	-		
Assigned for:						
Capital Reserves	\$	-	\$	-		
Unassigned	\$	16,703	\$	16,703		
Total Fund Balances	\$	16,703	\$	16,703		
Total Liabilities C Fund Balance	ф	16 703	ф	17554		
Total Liabilities & Fund Balance	\$	16,703	\$	17,554		

Community Development District

General Fund

Statement of Revenues, Expenditures, and Changes in Fund Balance

For The Period Ending May 31, 2024

	Adopted		rated Budget	Thw	Actual ı 05/31/24	<i>l</i> ariance
	Budget	1111	u 05/31/24	11111	103/31/24	allance
Revenues						
Developer Contributions	\$ 219,510	\$	24,247	\$	24,247	\$ -
Total Revenues	\$ 219,510	\$	24,247	\$	24,247	\$ -
Expenditures:						
General & Administrative:						
Supervisor Fees	\$ 12,000	\$	8,000	\$	-	\$ 8,000
Engineering	\$ 15,000	\$	10,000	\$	375	\$ 9,625
Attorney	\$ 25,000	\$	16,667	\$	3,873	\$ 12,794
Annual Audit	\$ 4,000	\$	4,000	\$	3,000	\$ 1,000
Assessment Administration	\$ 5,000	\$	5,000	\$	-	\$ 5,000
Arbitrage	\$ 450	\$	450	\$	-	\$ 450
Dissemination	\$ 5,000	\$	5,000	\$	-	\$ 5,000
Trustee Fees	\$ 4,100	\$	4,100	\$	-	\$ 4,100
Management Fees	\$ 37,500	\$	25,000	\$	15,625	\$ 9,375
Information Technology	\$ 1,800	\$	1,200	\$	750	\$ 450
Website Administration	\$ 1,200	\$	800	\$	500	\$ 300
Postage & Delivery	\$ 1,000	\$	667	\$	5	\$ 662
Insurance	\$ 5,000	\$	5,000	\$	5,000	\$ -
Copies	\$ 1,000	\$	667	\$	-	\$ 667
Legal Advertising	\$ 20,000	\$	13,333	\$	374	\$ 12,960
Contingency	\$ 5,000	\$	3,333	\$	313	\$ 3,020
Office Supplies	\$ 625	\$	417	\$	5	\$ 411
Travel Per Diem	\$ 660	\$	440	\$	-	\$ 440
Dues, Licenses & Subscriptions	\$ 175	\$	175	\$	175	\$ -
Total General & Administrative:	\$ 144,510	\$	104,248	\$	29,995	\$ 74,253
<u>Operations & Maintenance</u>						
Field Expenditures						
Contingency	\$ 75,000	\$	50,000	\$	-	\$ 50,000
Subtotal Field Expenditures	\$ 75,000	\$	50,000	\$	-	\$ 50,000
Total Expenditures	\$ 219,510	\$	154,248	\$	29,995	\$ 124,253
Excess (Deficiency) of Revenues over Expenditures	\$			\$	(5,748)	
Fund Balance - Beginning	\$ -			\$	22,452	
Fund Balance - Ending	\$ -			\$	16,703	

Community Development District

Capital Projects Fund

Statement of Revenues, Expenditures, and Changes in Fund Balance

For The Period Ending May 31, 2024

	Ado	opted	Prorate	Prorated Budget		Actual			
	Bu	Budget		Thru 05/31/24		Thru 05/31/24		Variance	
Revenues:									
Developer Advances	\$	-	\$	-	\$	1,101	\$	1,101	
Total Revenues	\$	-	\$	-	\$	1,101	\$	1,101	
Expenditures:									
Capital Outlay	\$	-	\$	-	\$	1,101	\$	(1,101)	
Total Expenditures	\$	-	\$	-	\$	1,101	\$	(1,101)	
Net Change in Fund Balance	\$	-			\$	-			
Fund Balance - Beginning	\$	-			\$	-			
Fund Balance - Ending	\$	-			\$	-			

Community Development District Month to Month

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul A	ug	Sep	Total
Revenues													
Developer Contributions	\$ - \$	- \$	- \$	3,927 \$	320 \$	- \$	20,000 \$	- \$	- \$	- \$	- \$	- \$	24,247
Total Revenues	\$ - \$	- \$	- \$	3,927 \$	320 \$	- \$	20,000 \$	- \$	- \$	- \$	- \$	- \$	24,247
Expenditures:													
Administrative													
Supervisor Fees	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Engineering	\$ 125 \$	- \$	- \$	- \$	- \$	- \$	250 \$	- \$	- \$	- \$	- \$	- \$	375
Attorney	\$ 1,302 \$	583 \$	219 \$	320 \$	78 \$	117 \$	1,255 \$	- \$	- \$	- \$	- \$	- \$	3,873
Annual Audit	\$ - \$	- \$	3,000 \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	3,000
Assessment Administration	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Arbitrage	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Dissemination	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Trustee Fees	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Management Fees	\$ 3,125 \$	3,125 \$	3,125 \$	- \$	- \$	- \$	3,125 \$	3,125 \$	- \$	- \$	- \$	- \$	15,625
Information Technology	\$ 150 \$	150 \$	150 \$	- \$	- \$	- \$	150 \$	150 \$	- \$	- \$	- \$	- \$	750
Website Maintenance	\$ 100 \$	100 \$	100 \$	- \$	- \$	- \$	100 \$	100 \$	- \$	- \$	- \$	- \$	500
Postage & Delivery	\$ - \$	4 \$	- \$	- \$	- \$	- \$	- \$	1 \$	- \$	- \$	- \$	- \$	5
Insurance	\$ 5,000 \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	5,000
Copies	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Legal Advertising	\$ - \$	- \$	- \$	- \$	- \$	- \$	374 \$	- \$	- \$	- \$	- \$	- \$	374
Contingency	\$ 38 \$	38 \$	38 \$	38 \$	40 \$	40 \$	40 \$	40 \$	- \$	- \$	- \$	- \$	313
Office Supplies	\$ - \$	3 \$	- \$	- \$	- \$	- \$	- \$	3 \$	- \$	- \$	- \$	- \$	5
Travel Per Diem	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Dues, Licenses & Subscriptions	\$ 175 \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	175
Total General & Administrative:	\$ 10,015 \$	4,003 \$	6,632 \$	358 \$	118 \$	157 \$	5,294 \$	3,419 \$	- \$	- \$	- \$	- \$	29,995
Operations & Maintenance													
Field Services													
Contingency	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Subtotal Field Expenses	\$ - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	-
Total Expenditures	\$ 10,015 \$	4,003 \$	6,632 \$	358 \$	118 \$	157 \$	5,294 \$	3,419 \$	- \$	- \$	- \$	- \$	29,995
Excess Revenues (Expenditures)	\$ (10,015) \$	(4,003) \$	(6,632) \$	3,569 \$	202 \$	(157) \$	14,706 \$	(3,419) \$	- \$	- \$	- \$	- \$	(5,748)

SECTION 4



April 19, 2024

Samantha Ham – Recording Secretary Woodland Ranch Estates CDD 219 E. Livingston Street Orlando, Florida 32801-1508



RE: Woodland Ranch Estates Community Development District Registered <u>Voters</u>

Dear Ms. Ham,

In response to your request, there are currently **no** voters within the Woodland Ranch Estates Community Development District as of **April 15, 2024**.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

Lori Edwards

Supervisor of Elections

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Polk County, Florida

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PolkElections.gov