



## **INVITATION TO BID (ITB)**

**ITB NO. 2023-003**

**PROJECT NAME:  
VOGEL PARK MARINE FACILITY**

**FOR NORTH BAY VILLAGE, FLORIDA**

**PURCHASING DEPARTMENT  
1666 Kennedy Causeway, Suite 300  
North Bay Village, Florida, 33141  
Telephone (305) 756-7171  
Email [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com)**



**NOTICE OF  
INVITATION TO BID**

Bid documents must be submitted electronically through [www.DemandStar.com](http://www.DemandStar.com) and responding no later than the designated deadline date and time. A Bidder’s failure to submit as required before the deadline shall cause their bid to be disqualified. Under no circumstances shall bids delivered to or received by the Village or DemandStar after the Due Date and Time be accepted or considered. Late bids will be retained unopened.

Solicitation Documents may be obtained by registering with [www.DemandStar.com](http://www.DemandStar.com) or from the Bid/RFP Website: <https://northbayvillage-fl.gov/bids-rfps/>.

Bidders who obtain solicitation documents from any other source are cautioned that the solicitation package may be incomplete. Furthermore, all addenda issued will be posted and disseminated by DemandStar to planholders/members.

The following meeting dates are subject to change according to the needs of the Village.

ITB Number:	2023-003
ITB Name:	Vogel Park Marine Facility
ITB Publish Date:	July 18, 2023
<b>Mandatory</b> Prebid/Site Visit:	VIA ZOOM w/Site Visit, August 1, 2023, at 10 a.m. EST
Written Questions Deadline:	August 18, 2023, at 4:00 p.m. EST
ITB Closing Date/Time:	<b>August 29, 2023, By No Later Than 2:00 p.m. EST</b>
Anticipated Award Date	September 12, 2023
Contact Information:	Email: <a href="mailto:aatkinson@nbvillage.com">aatkinson@nbvillage.com</a>
Email Notifications:	Start all email subject lines with the ITB number for faster recognition.
Submittal Requirements:	Submit bid by completing and returning all required documents. All submittals must be electronic and contained in one (1) file. Under no circumstances shall bids delivered to or received by DemandStar after the Due Date and Time be accepted or considered. Late proposals will be retained unopened. It is the sole responsibility of the Bidder to assure that their submittal is uploaded to <a href="http://www.DemandStar.com">www.DemandStar.com</a> on or before the Due Date and Time. The Village shall in no way whatsoever be responsible for any delays caused by any power outages, or internet failures. No exceptions will be made.
Submit Bid to::	Bidder shall submit their bid indicating Bidder’s name and Project Name, ITB Number, and time and date of the ITB opening. Bids shall be submitted electronically through <a href="http://www.DemandStar.com">www.DemandStar.com</a> .
ITB Scope of Work:	North Bay Village, Florida (hereinafter referred to as the “Village”) is seeking bids from qualified firms for <b>Vogel Park Marine Facility.</b>

Bidders may not withdraw their bid submittal for a period of ninety (90) calendar days after the day set for the opening of bids.

The Village reserves the right to waive any informalities or irregularities, reject any and all bids that are incomplete, conditional, non-responsive, or which contain additions not allowed for; to reject any or all bids in whole or in part with or without cause; to award in whole or in part to one or more Bidders, and to accept the bid which best serves the Village.



**SCHEDULE OF PROCUREMENT EVENTS**

<b>Event</b>	<b>Date</b>	<b>Time EST</b>
ITB Available on DemandStar <a href="http://www.DemandStar.com">www.DemandStar.com</a> and <a href="http://www.northbayvillage-fl.gov">www.northbayvillage-fl.gov</a>	Tuesday, July 18, 2023	TBD
<b>Mandatory</b> Pre-Bid Site Visit/Conference <u>Meeting ID:</u> 825 3744 8278 <u>Password:</u> 836769	Tuesday, August 1, 2023	10:00 AM
Deadline for Written Questions To be sent to <a href="mailto:aatkinson@nbvillage.com">aatkinson@nbvillage.com</a>	Friday, August 18, 2023	4:00 PM
Village Response to Written Questions <a href="http://www.DemandStar.com">www.DemandStar.com</a> and <a href="http://www.northbayvillage-fl.gov">www.northbayvillage-fl.gov</a>	Tuesday, August 22, 2023	4:00 PM
Deadline for Electronic Submittal through <a href="http://www.DemandStar.com">www.DemandStar.com</a>	Tuesday, August 29, 2023	2:00 PM
Electronic Proposal Opening through Zoom. <u>Meeting ID:</u> 886 9930 4598 <u>Password:</u> 715450	Tuesday, August 29, 2023	2:00 PM
To be Approved by Village Commission	Tuesday, September 12, 2023	6:30 PM
Notice of Intent to Award to be Posted on <a href="http://www.DemandStar.com">www.DemandStar.com</a> and <a href="http://www.northbayvillage-fl.gov">www.northbayvillage-fl.gov</a>	*TBD	TBD
Contract Sent to Vendor	*TBD	TBD
Notice to Proceed	*TBD	TBD

\*These dates are tentative and subject to change.



## PUBLIC NOTICE

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**NOTICE IS HEREBY GIVEN** that North Bay Village is soliciting bids from interested parties and/or firms in response to this Invitation to Bid ("ITB") for the **"VOGEL PARK MARINE FACILITY"**.

The Bids shall be clearly titled **"ITB# 2023-003 – VOGEL PARK MARINE FACILITY"**.

All bids shall be:

- Submitted electronically via [WWW.DEMANDSTAR.COM](http://WWW.DEMANDSTAR.COM)
- No later than Tuesday, August 29, 2023, by 2:00 p.m.

**Mandatory** Pre-Proposal Meeting via Zoom, with optional Site Visit to follow located at Vogel Park, on Tuesday, August 1, 2023, at 10:00 a.m.

- Meeting ID: 825 3744 8278
- Password: 836769

All bids shall open publicly via Zoom on Tuesday, August 29, 2023, at 2:00 p.m.

- Meeting ID: 886 9930 4598
- Password: 715450

The amount of each bid and each bid item, if appropriate, and such other relevant information shall be recorded, and the record and each bid shall be open to public inspection. Late submittals shall not be accepted or considered.

Bidder shall submit their bid indicating Bidder's name and Project Name, ITB Number, and time and date of the ITB opening. Bids shall be submitted electronically through [www.DemandStar.com](http://www.DemandStar.com). Failure to comply shall deem submittal as nonresponsive.

The Village reserves the right to accept any proposal deemed to be in the best interest of the Village or to waive any informality in any submittal. The Village may reject any or all submittals and re-advertise. A copy of the complete bid may be obtained from the North Bay Village website, <https://northbayvillage-fl.gov/bids-rfps/>, or by clicking on the Village Clerk link under Village Departments. Select the "Bids" icon.

All questions or comments should be directed to the following email: [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com). Inquiries must reference **"ITB# 2023-003 – VOGEL PARK MARINE FACILITY"** in the subject line. Deadline to submit written questions is Friday, August 18, 2023, at 4:00 p.m.

Pursuant to Section 38.18 of the Village Code, "Ethics Ordinance", a Cone of Silence is hereby imposed whereby any communications between any potential bidder, service provider, lobbyist or consultant and the Village's staff and elected officials pertaining to this RFQ are prohibited.

The Village reserves the right to delay or modify scheduled dates and will notify proposers of all changes in scheduled dates.

Publish Date: July 18, 2023.



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## SECTION I

### DEFINITIONS, ABBREVIATIONS, & ACRONYMS

Wherever used in the Contract Documents the following terms have the meanings indicated in the industry which are applicable to both the singular and plural thereof:

1.1. **Acceptance:** By the VILLAGE'S PROJECT MANAGER of the Work as being fully complete in accordance with the Contract Documents.

1.2. **Addenda:** Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the Bidding Requirements or the Contract

1.3. **Application for Payment:** The form accepted by the CONSULTANT which is to be used by CONTRACTOR to request progress payments or final payment and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

1.4. **Bid:** The formal firm price offer of the BIDDER submitted on the prescribed form setting forth the prices for the WORK in response to the Invitation to Bid.

1.5. **Bidder:** Any person, firm or corporation submitting a Bid for the Work directly to the VILLAGE. As used in this Invitation to Bid, the words proposer and contractor may be used interchangeably to mean Bidder.

1.6. **Bid Documents:** Includes the Invitation to Bid, Instructions to Bidders, Bid Form, and proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

1.7. **Bonds:** Bid security/guarantee, performance, and payment bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the Contract Documents and in accordance with the law of the place of the project.

1.8. **Cable:** An assembly of one or more insulated conductors or optical fibers, within an enveloping sheath

1.9. **Change Order:** A written order to the CONTRACTOR executed by the VILLAGE, CONSULTANT, and CONTRACTOR authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Contract.

1.10. **Consultant/Engineer of Record:** The Architect or Engineer, also referred to as **EOR (Engineer or Record)**, firm or corporation named as such in the Contract Documents that acts as the Village's authorized agent within the scope of work entrusted to them by the Village.

1.11. **Consultant's Representative:** An authorized representative of the Consultant assigned to observe the work performed and materials furnished by the CONTRACTOR.

1.12. **Contract:** The written agreement between VILLAGE and CONTRACTOR covering the WORK to be performed.

1.13. **Contract Documents:** The Contract Documents establish the rights and obligations of the parties. The Notice of Tentative Award, including the contract is directed for signature as acceptance of offer by the Contractor, prior to Commission approval for award. Once approved, a notice of award requesting the bonds and insurance are requested. The executed contract documents, including exhibits (solicitation/submittal), bonds, and insurance are provided to the Contractor. CONSULTANT'S written interpretations and clarifications issued on or after the Effective Date of the Contract.

Please review Section VIII, Sample Contract, and note any objections, or revisions that would be required within the submittal.

Should no revisions be noted, the Contractor agrees that the terms and conditions of agreement are acceptable. The proposed Agreement does not authorize the performance of any work.

Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by VILLAGE to CONTRACTOR are not Contract Documents.

1.14. **Contract Price:** The total monies payable by the VILLAGE to the CONTRACTOR under the terms and conditions of the Contract Document.

1.15. **Contract Time:** The number or numbers of successive days or dates stated in the Contract Documents for the completion of the WORK.

1.16. **CONTRACTOR:** The individual, partnership, corporation, joint-venture, or other legal entity with whom the VILLAGE has entered into the Contract. Can be used interchangeably with the term bidder and / or vendor.

1.17. **Day:** A calendar day of 24 hours measured from midnight to the next midnight.

1.18. **Defective Work:** WORK that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents; or WORK that has been damaged prior to the CONSULTANT'S recommendation of final payment.

1.19. **Village:** North Bay Village, Florida, a Florida Municipality, its authorized and legal representatives, the public entity with whom the Contractor has entered into the Contract and for whom the WORK is to be provided. A political subdivision, Incorporated Village within Miami-Dade County of the State of Florida, who's governing body is a Village Commission consisting of a Mayor, Vice Mayor and three Village Commission members.

1.20. **Village Representative:** The person or persons designated by the VILLAGE'S PROJECT MANAGER. The VILLAGES PROJECT MANAGER. This may include the CONSULTANT/EOR.

1.21. **DP:** Dead pairs: Unused copper pairs terminating within splice case, but without being splices to outgoing cable.

1.22. **Drawings:** The drawings, plans, maps, profiles, diagrams, and other graphic representations which show character, location, nature, extent and scope of the WORK, which have been prepared or approved by CONSULTANT and are included and/or referred to in the Contract Documents. Shop Drawings are not Drawings as so defined.

1.19. **Effective Date of the Contract:** The date indicated in the Contract, but if no such date is indicated it means the date on which the Contract is signed by the last of the two parties to sign the Contract.

1.20. **Field Order:** A written order issued by the VILLAGE'S PROJECT MANAGER or by the CONSULTANT which clarifies or interprets the Contract Documents in accordance with Article 9.4 or orders minor changes in the Work in accordance with Article 10.1 of Supplementary Conditions





1.21. **GEC:** Grounding electrode conductor: Conductor used to connect grounding electrode to equipment grounding conductor, or to grounded conductor of circuit at service equipment, or at source of separately derived system.

1.22. **GP:** Grounding electrode: Conductor (rod, pipe or plate or group of conductors) in direct contact with earth for purpose of providing low-impedance connection to earth.

1.23. **General Requirements:** See Special Conditions and Division 1 of the Technical Specifications.

1.24. **Hand box:** rectangular or square underground pathway element similar to small maintenance hole, which cannot be fully entered, that allows for pulling point or splice point in power, security or communications pathway.

1.25. **Hand hole:** A round underground pathway element similar to a hand box, which cannot be fully entered, that allows for a pulling point in a pathway.

1.26. **ICP:** Inside Cable Plant: Part of Information Transport System running within buildings. ICP elements include workstation outlet assembly, cabling to the workstation from network rooms, backbone cabling within building, backbone cabling running between physically contiguous buildings, network racks and hardware (routers, switches, hubs, firewalls, etc.), patch panels, punch blocks, fiber distribution panels, patch cords, and cross-connect cables/wires.

1.27. **Identifier:** An item of information that links a specific element of the Information Transport System infrastructure with its corresponding record.

1.28. **Infrastructure (Information Transport System):** A collection of those Information Transport System components, excluding equipment, that together provides the basic support for the distribution of all information within a building or campus.

1.29. **Irregular Bids:** Irregular Bids are defined as those containing serious omissions, unauthorized alternative Bids, incomplete Bids or unbalanced Bids.

1.30. **ITS:** Information Transport System: Copper cabling or optical fiber for transmission of information on Village property. Transmission includes data, video, voice, fire alarm, security, access control, and other low-voltage networks. Information Transport System is not limited to Village-owned cabling, but includes copper and optical fiber, and equipment owned by outside providers carrying Village's information. Pathways are not limited by the Village's ownership but include those owned by any third party. Information Transport System may be referred to as "the network" within project documents.

1.31. **Laws and Regulations:** Laws, rules, codes, regulations, ordinances and/or orders promulgated by a lawfully constituted body authorized to issue such Laws and Regulations.

1.32. **Linkage:** A connection between a record and an identifier or between records.

1.33. **Maintenance (man) holes:** Underground pathway element large enough for person to fully enter work, used to provide access to underground cable to pull, splice, and maintain.

1.34. **Media (Information Transport System):** Wire, cable, or conductors used for Information Transport System.

1.35. **Notice to Proceed:** The written notice issued by the DISTRICT, or its agents, to the CONTRACTOR authorizing the CONTRACTOR to proceed with the WORK and establishing the date of commencement of the Contract Time and the date the Contract WORK is to be completed.

1.36. **Notice of Tentative (or Intent) Award:** The official written notice by the VILLAGE to the apparent successful BIDDER giving authorization to enter into an agreement, stating that upon compliance and Commission approval with the condition's precedent enumerated therein within the time specified, and receipt of accepted offer.

1.37. **OB:** Outlet box: Metallic or nonmetallic box used to hold Information Transport System outlets/connectors or transition devices

1.38. **OCP:** Outside Cable Plant: Part of Information Transport System running between buildings, from building to definable exterior point, between definable exterior points, or from non-Village source to Village building or definable exterior point. OCP includes termination punch blocks, fiber distribution panels, interior splices for outside to inside optical fiber transition, and other initial device into which outside cable attaches. OCP does not include backbone cable running between physically contiguous buildings unless cabling enters OSP pathway element (e.g., OSP conduits, maintenance holes, etc.). OCP includes underground cabling and aerial cabling.

1.39. **Outlet (Connector) (Information Transport System):** Connecting device in work area on which horizontal cable or outlet cable terminates.

1.40. **Partial Utilization:** Placing a portion of the WORK in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion for all the WORK.

1.41. **Pathway:** Facility for the placement of Information Transport System cable.

1.42. **Project:** The total construction of which the WORK to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

1.43. **Record:** Collection of detailed information related to specific element of Information Transport System infrastructure

1.44. **Report:** Presentation of collection of information from various records.

1.45. **Resident Project Representative (RPR):** The authorized representative of the CONSULTANT who is assigned to the Site or any part thereof.

1.46. **Responsible Bidder, Offeror, Quoter, Or Respondent means** an individual or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will give reasonable assurance of good faith and performance.

1.47. **Responsive Bidder, Offeror, Quoter, Or Respondent, Vendor, Contractor** means an individual or business which has submitted a bid, offer, proposal, quotation or response, which conforms in all material respects to the solicitation, including, but not limited to compliance with any requirements contained within the solicitation.

1.48. **Shop Drawings:** All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by or for the CONTRACTOR, a Subcontractor, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work and as required by the Contract Documents. Shop Drawings are not part of the Contract Documents and failure of the CONSULTANT or any of his representatives to take exception to any product, material, system or installation depicted on Shop Drawings that are not in conformance with the





requirements of the Contract Documents shall not constitute a Field Order or Change Order or any other Modification of the Contract Documents, and shall not relieve the CONTRACTOR from complying with any portion of the Contract Documents.

**1.53. Safety Data Sheet:** The manufacturer, importer, or distributor of a toxic substance will provide a safety data sheet with his/her offer.

**1.54. Safety Precautions:** The Contractor shall be responsible for the provision of adequate and proper safety precautions for the workmen and all persons in or around the work area.

**1.55. Space (Information Transport System):** Area used for housing installation and termination of Information Transport System equipment and cable, e.g., equipment rooms, network rooms, work areas, and maintenance holes/hand boxes/handholes.

**1.56. Special Conditions:** When included as a part of the Contract Documents, Special Conditions refer only to the Work under this Contract. Special Conditions take precedent over the General Conditions.

**1.57. Specifications:** Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the WORK and certain administrative details applicable thereto.

**1.58. Splice:** Joining of conductors in splice closure, meant to be permanent.

**1.59. Splice Box:** Box, located in pathway run, intended to house cable splice.

**1.60. Splice Closure:** Device used to protect splice.

**1.61. Sub-Bidder:** One who submits a Bid to a Bidder.

**1.62. Subcontractor:** An individual, firm, or corporation having a direct contract with the CONTRACTOR or with any other Subcontractor for the performance of a part of the WORK at the Site.

**1.63. Substantial Completion:** For purposes of this Contract, and for compliance of those procedures, duties and obligations as set forth in Florida Statutes §218.70 and §218.735, the term Substantial Completion shall be as follows, in lieu of any other definition:

- A. "Substantial Completion" is defined as that point where the Village is able to enjoy beneficial occupancy of the Work and where the Work has achieved that level of completion such that Village is able to utilize the entire Project for its intended purposes, including but not limited to the completion of all specified systems and items relating to life safety and regulatory use, with the exception of incidental or incomplete items except where a lack of completion of such incidental or incomplete items of Work shall adversely affect the complete operation of other areas of the Work.
- B. Additional conditions (if any) needed to achieve Substantial Completion of the Work, and which are project specific are as set forth in attached Technical Specifications.
- C. When the entire Project is considered to be Substantially Complete, this does not constitute Final Acceptance or Final Completion of the entire Project.

**1.64. Successful Bidder:** The lowest, qualified, responsible and responsive Bidder to whom Village (on basis of Village's evaluation as hereinafter provided) makes an award.

**1.65. Supplementary Conditions:** The part of the Contract Documents which amends or supplements these General Terms

and Conditions.

**1.66. Supplier:** A manufacturer, fabricator, supplier, distributor, materialman or vendor.

**1.67. Surety:** The corporate body which is bound with the CONTRACTOR, and which engages to be responsible for the CONTRACTOR and his acceptable performance of the Work.

**1.68. Termination position:** Discrete element of termination hardware where information Transport System conductors are terminated.

**1.69. Unbalanced Bids:**

**A. Mathematically Unbalanced Bid** means a bid containing lump sum or unit bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs.

**B. Materially Unbalanced Bid** means a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Village; or which is so mathematically unbalanced as to result in an advance payment.

**1.70. Unit Price Work:** WORK to be paid for on the basis of unit prices.

**1.71. Utilities:** All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground or above ground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water supply or distribution, sewage and drainage removal, traffic or other control systems.

**1.72. Work:** Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by Contractor under the Contract Documents, including all labor, materials, equipment and other incidentals, and the furnished thereof.

**1.73. Work Area (workstation):** Building space where occupants interact with Information Transport System terminal equipment.

**1.74. Work Change Directive:** A written directive to Contractor, issued on or after the Effective Date of the Contract and signed by the Village and recommended by the Consultant/EOR, ordering an addition, deletion or revision in the WORK, or which references an emergency or unforeseen physical conditions under which the WORK is to be performed. A Work Change Directive may not change the Contract Price or the Contract Time but is evidence that the parties expect that the change directed or documented by a Work Change Directive shall be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time.

**1.75. Written Amendment:** A written amendment of the Contract Documents, signed by the VILLAGE and CONTRACTOR on or after the Effective Date of the Contract and normally dealing with the non-engineering or non-technical rather than strictly Work-related aspects of the Contract Documents.

**1.76. Intent of Certain Terms:**

A. Furnish, Install, Perform, Provide

- 1) The word "furnish," when used in connection with services, materials, or equipment, shall mean 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, shall mean 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, shall mean to furnish and install said services, materials or equipment complete and ready for intended use.
- B. When "furnish," "install," "perform," or "provide," is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of contractor, "provide" is implied.
- C. Unless stated otherwise in the contract documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the contract documents in accordance with such recognized meaning.

**1.77. Abbreviations, Acronyms, and Symbols:**

Reference, Design Standards and Abbreviations: Any reference to published specifications or standards of any organization or association or as noted in Florida Building Code, Chapter 2, and Florida Fire Prevention Code are applicable; and shall comply with the requirements of the specification or standard which is current on the date of Advertisement for Bids. In case of a conflict between the referenced specifications or standards, the one having the more stringent requirements shall govern.

Documents listed shall be standard references currently in effect at project commencement.

In case of conflict between the referenced specifications or standards and the Contract Documents, the Contract Documents shall govern.

**A. ABBREVIATIONS, REFERENCE STANDARDS, AND ACRONYMS**

AA	Aluminum Association
AAA	American Arbitration Association
AABC	Associated Air Balance Council
AAMA	Architectural Aluminum Manufacturers Association
AASHO	American Association of State Highway Officials
ABA	American Bar Association
ABMA	American Boiler Manufacturers Association
ABPA	Acoustical and Board Products Association
ACI	American Concrete Institute
ACPA	American Concrete Pipe Association
ACR	Attenuation-to-Crosstalk Ratio
ADA	Americans with Disabilities Act
AEIC	Association of Edison Illuminating Companies
AFBMA	Anti-Friction Bearing Manufacturers Assoc.
AFF	Above finished floor
AGA	American Gas Association
AGC	Associated General Contractors of America
AGMA	American Gear Manufacturers Association
AHA	American Hardboard Association
AI	The Asphalt Institute
AIA	American Institute of Architects
AIA	American Insurance Association
AIMA	Acoustical and Insulating Materials Association
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AITC	American Institute of Timber Construction
AMCA	Air Moving and Condition Association
ANSI	American National Standard Institute
ANSI/UL263	Fire Tests of Building Construction and Materials.

ANSI/UL723	Surface Burning Characteristics of Building Materials.
ANSI/UL1479	Fire Tests of Through Penetration Firestops.
ANSI/UL2079	Tests for Fire Resistance of Building Joint Systems.
APA	American Plywood Association
API	American Petroleum Institute
APWA	American Public Works Association
AREA	American Railway Engineering Association
ARI	American Refrigeration Institute
ASA	American Standards Association (Now ANSI)
ASAHC	American Society of Architectural Hardware Consultants
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating and Air Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASSCBC	American Standard Safety Code for Building Construction
ASSHTO	American Association of State Highway Transportation Officials
ASTM	American Society for Testing and Materials
ASTM/D16	Definitions of Terms Relating to Paint, Varnish, Lacquer, and Related Products for interpretation of terms used herein.
ASTM/D4442	Test Method for Moisture Content of Wood.
ASTM/E-84	Surface Burning Characteristics of Building Materials.
ASTM/E119	Fire Tests of Building Construction & Materials
ASTM/E814	Fire Tests of Through Penetration Fire Stops,
ASTM/E1966	Test Method for Fire Resistive Joint Systems.
ASTM/E1399	Test Method for Cyclic Movement & Measuring Minimum & Maximum Joint Widths of Architectural Joint Systems
AWG	American Wire Gauge
AWI	Architectural Woodwork Institute
AWPA	American Wood Preservers Association
AWPB	American Wood Preservers Bureau
AWPI	American Wood Preserves Institute
AWS	American Welding Society
AWWA	American Water Works Association
BHMA	Builders Hardware Manufacturers Association
BIA	Brick Institute of America (formerly SCPI)
BD	Building distributor (replacing main-cross connect and MDF as "building service" room identifiers).
BICSI®	Building Industry Consulting Service International, Inc.
BTU	British Thermal Unit.
CATV	Community Antenna Television (cable television).
CD	Campus distributor (replacing main-cross connect and MDF as "campus-wide service" room identifiers). Also, compact disk for storage of audio or video information.
dB	Decibel.
CDA	Copper Development Association
CFS	Cubic Feet per Second
CMAA	Crane Manufacturers Association of America
CRSI	Concrete Reinforcing Steel Institute
CS	Commercial Standard
DHI	Door and Hardware Institute
DIPRA	Ductile Iron Pipe Association
DOT Spec	Standard Specification for Road and Bridge Construction Florida Department of Transportation, 1982
E/A	Engineer and/or Architect
EDA	Economic Development Association
EEL	Edison Electric Institute



EF	Entrance Facility	NEC	National Electrical Code
EIA	Electronic Industries Alliance	NECA	National Electrical Contractors' Assoc
ELFEXT	Equal Level Far-End Crosstalk	NEMA	National Electrical Manufacturers' Association
EMC	Electromagnetic Compatibility.		
EMI	Electromagnetic Interference.	NESCA	National Electric Safety Code, C2-1997.
EMT	Electrical metallic tubing.	NFPA	National Fire Protection Association
ENT	Electrical nonmetallic tubing.	NLA	National Lime Association
EPA	Environmental Protection Agency	NPC	National Plumbing Code
EPDM	Ethylene-polypropylene-diene membrane	NPT	National Pipe Threads
ER	Equipment Room. Replacing "TR"	NR	Network Room
FCC	Federal Communications Commission	NRTL	National Recognized Testing Laboratory
FCI	Fluid Control Institute	NSC	National Safety Council
FD	Floor distributor (replacing network room, intermediate and horizontal cross-connect, and telecommunications as "building service" room identifiers). Also, Floor Drain as part of building plumbing system	NSF	National Sanitation Foundation
		OD	Outside Diameter
		OSHA	U.S. Department of Labor, Occupational Safety and Health Administration
FDDI	Fiber Distribution Data Interface.	OCP	Outside Cable Plant.
FDER	Florida Department of Environmental Regulation	OTDR	Optical Time Domain Reflectometer
FDOT	Florida Department of Transportation	PCA	Portland Cement Association
Fed Spec	Federal Specification	PCI	Prestressed Concrete Institute
FEXT	Far-End Crosstalk	PR	Pair
FMC	Flexible metallic conduit	PS	United States Products Standards
FOTP	Fiber Optic Test Procedure	PSI	Pounds per Square Inch
FPL	Florida Power and Light	PSIA	Pounds per Square Inch Atmosphere
FPS	Feet per Second	PSIG	Pounds per Square Inch Gauge
Freq	Frequency	RCDD® :	Registered Communications Distribution Designer
FS	Federal Standards	RPM	Revolutions per Minute
GA	Gypsum Association	RFI:	Radio Frequency Interference
GE	Grounding Equalizer	RH	Relative Humidity.
Gnd	Ground	RNC	Rigid nonmetallic conduit.
GPM	Gallons per Minute	SAE	Society of Automotive Engineers
HB	Hand box. Also, hose bibb for water supply part of plumbing system.	SDI	Steel Decks Institute
		SIGMA	Sealed Insulating Glass Manufacturer's Association
HC	Horizontal Cross-Connect (replaced by floor distributor "FD")	SJI	Steel Joists Institute
HH	Handhole	SMACNA	Sheet Metal and Air Conditioning Contractors' National Association
HMI	Hoist Manufacturers Institute		
HP	Horsepower	SM	Single Mode
HSBII	Hartford Steam Boiler Inspection and Insurance Co.	SSI	Scaffolding and Shoring Institute
		SSPC	Steel Structures Painting Council
HVAC	Heating, Ventilation, and Air Conditioning	SSPC	Structural Steel Painting Council
Hz	Hertz	STA	Station (100 feet)
IC	Intermediate Cross-Connect (replaced by building distributor "BD").	TAS	Technical Aid Series
ID	Inside Diameter	TBB	Telecommunication Bonding Backbone
IDC	Insulation Displacement Connectors	TCA	Tile Council America
IEEE	Institute of Electrical and Electronic Engineers	TDH	Total Dynamic Head
		TE	Telephone Equipment (Wall Mounted Equipment Rack)
IFI	Industrial Fasteners Institute	TGB	Telecommunications Grounding Buss Bar
IMC	Intermediate metal conduit	TH	Total Head
IPCEA	Insulated Power Cable Engineers Association	TIA	Telecommunications Industry Association.
IPS	Iron Pipe Size	TMGB	Telecommunications Main Grounding Buss Bar
ISO	International Organization for Standardization		
ISP	Inside Cable Plant	UBC	Uniform Building Code
LFMC	Liquid tight flexible metal conduit	UL	Underwriter's Laboratories, Inc.
LFNC	Liquid tight flexible nonmetallic conduit	UOM	Units of Measure-Weights and Measures shall be as identified by Weights and Measures Division, NIST, U. S. Department of Commerce, 100 Bureau Dr., Stop 2600, Gaithersburg, MD 20899-2600.
Mbps	Megabits per second.		
MER	Main Equipment Room	UPS	Uninterruptible Power Supply
MF	Factory Mutual System	USASI	United States of American Standards Institute
MGD	Million Gallons per Day	WAO	Work Area Outlet
MH	Maintenance Hole		
MHI	Materials Handling Institute		
MIL	Military Specification		
MMA	Monorail Manufacturers Association		
MHz	Megahertz		
NBFU	National Board of Fire Underwriters		
NBHA	National Builders' Hardware Association		
NBR	Acrylonitrile-butadiene rubber		
NBS	National Bureau of Standards		
NCSA	National Crushed Stone Association		
NCSPA	National Corrugated Steel Pipe Assoc		

**B. ITS/WARNOCK-HERSEY - PRODUCT DIRECTORY**

- NFPA 101: Life Safety Code - National Fire Protection Association (NFPA).
- NFPA 70: National Electrical Code - National Fire Protection Association (NFPA).
- ANSI/NECA/BICSI-568-2001 "Installing Commercial Building Definitions, Abbreviations & Acronyms



Telecommunications Cabling”.

ANSI/TIA/EIA-568-B.1 and addenda “Commercial Building, Telecommunications Cabling Standard - Part 1: General Requirements”.

ANSI/TIA/EIA-568-B.2 and addenda “Commercial Building Telecommunications Cabling Standard - Part 2: Balanced Twisted-Pair”.

ANSI/TIA/EIA-568-B.3 and addenda “Commercial Building Telecommunications Cabling Standard - Part 3: Optical Fiber Cabling and Components Standard”.

ANSI/TIA/EIA-569-B and Addenda “Commercial Building Standard for Telecommunications Pathways and Spaces”.

ANSI/TIA/EIA-606-A and Addenda “Administration Standard for Telecommunications Infrastructure of Commercial Buildings”.

ANSI-J-STD-607-A and Addenda “Commercial Building Grounding (Earthing) and Bonding Requirements for Telecommunications”.

ANSI/TIA/EIA-526-7 and Addenda “Measurement of Optical Power Loss of Installed Single-Mode Fiber Cable Plant”.

ANSI/TIA/EIA-526-14A and Addenda “Optical Power Loss Measurements of Installed Multimode Fiber Cable Plant”.

ANSI/TIA/EIA-758 “Customer Owned Outside Plant Telecommunications Cabling Standard”.

IEC/TR3 61000-5-2 - Ed. 1.0 and amendments. “Electromagnetic compatibility (EMC) - Part 5: Installation and mitigation guidelines – Section Earthing and cabling”.

ANSI/NFPA 70 National Electrical Code, 2008 Edition.

BICSI Telecommunications Distribution Methods Manual (TDMM).

BICSI Telecommunications Cabling Installation Manual (TCIM).

BICSI Customer-Owned Outside Plant Design Manual, 3rd, Edition (CO-OSP).

Applicable Martin County Codes and Regulations.

Underwriters Laboratories (UL).

FCC -Federal Communications Commission.

Occupational Safety and Health Regulations (OSHA).

Florida Fire Protection Code (including NFPA 101 Life Safety Code).

Applicable Florida Statutes and Administrative Rules.

Manufacturers Training Manuals (Design and Installation).

NACE (National Association of Corrosion Engineers) - Industrial Maintenance Painting.

NPCA (National Paint and Coatings Association) - Guide to U.S. Government Paint Specifications.

PDCA (Painting and Decorating Contractors of America) - Painting - Architectural Specifications Manual.

SSPC (Steel Structures Painting Council) - Steel Structures Painting Manual.

- SSPC-SP 1 – Solvent Cleaning.
- SSPC-SP 2 – Hand Tool Cleaning.
- SSPC-SP 3 – Power Tool Cleaning.
- SSPC-SP 13 – Nace No 6 Surface Preparation for Concrete.

UL Underwriters Laboratories Fire Resistance Directory.

**Note:** Additional abbreviations and symbols are shown on the Drawings.





## SECTION II

### INSTRUCTIONS TO BIDDERS

1. **REQUIREMENTS FOR PERSONNEL ENTERING VILLAGE PROPERTY:**

Possession of firearms will not be tolerated in or near Village buildings. Nor will violations of Federal or State Laws and any applicable Village policy regarding Drug Free Workplace be tolerated. Violators shall be subject to immediate termination. "Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.

No person who has a firearm in their vehicle may park their vehicle on Village property. Furthermore, no person may possess or bring a firearm on Village property.

If any employee of an awarded Proposer or subcontractor is found to have a firearm on Village property, said employee shall be terminated from the project. If the awarded Bidder or Subcontractor fails to ensure that said employee is restricted from the project may result in contract cancellation and/or termination.

2. **QUALIFICATIONS OF BIDDERS:**

To demonstrate qualifications to perform the WORK, each Bidder must be prepared to submit within five (5) calendar days of Village's request written evidence acceptable to the Village documentary evidence demonstrating, financial data/fiscal responsibilities, previous experience, present commitments and other such data as may be called for to meet all of the Bidder's obligations set forth in the Bid documents. Each Bid must contain evidence of Bidder's qualifications to do business in the State of Florida or obtain such qualification prior to award of the contract.

The Village reserves the right to contact any of the firms listed by Bidders in any sections as references or any additional firms or individuals to review Bidder's qualifications. Bids that do not comply with these requirements may be rejected at the option of the Village.

The project shall be constructed by a firm with the primary qualifying agent licensed as a Contractor pursuant to and as defined by Florida Statute 489 and shall have been employed full time by the construction firm for at least one year prior to this project's bid date.

3. **ANNUAL APPROPRIATION:** This Bid is conditional upon the Village having funding to implement the Contract.

4. **DEFINED TERMS:** Terms used in these Instructions to Bidders, have the meanings assigned to them in the industry involved in the subject matter of the Bid, in Miami-Dade County, Standard General Conditions of the Construction Contract.

5. **COST OF BID:** Costs, either direct or indirect, incurred by the Bidder in the preparation, presentation, demonstration, delivery or for any other reason associated with the submittal of this bid is solely the responsibility of the Bidder and not the Village, and are not to be charged to the Village.

6. **BACKGROUND INVESTIGATION:** As a part of the Bid evaluation process, the Village may conduct a background investigation, including a criminal record check of Bidder's officers and/or employees, by FDLE to establish the competency, responsibility, qualifications and financial ability of the Bidders, proposed subcontractors and other persons and organizations to do the work in accordance with the Contract Documents to the Village's satisfaction within the prescribed time. The Commission reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to the Village's satisfaction.

The Bidder's signature on the Bid Form constitutes acknowledgement of and consent to such investigation. The Village shall be the sole judge in determining the Bidder's qualifications.

7. **FACILITIES:** The Village reserves the right to inspect the Bidder's facilities at any reasonable time, prior to award of the Bid, during normal working hours, with prior notice to determine that it has a bona fide place of business and is a responsible Bidder.

The Village also reserves the right to inspect all facilities of any subcontractor in order to make determination as to the foregoing. The subcontractor shall be equally responsible for meeting all requirements specified in the Invitation to Bid.

8. **INQUIRIES/AVAILABILITY:** Inquiries concerning this ITB should be made in writing. The Village will respond to written inquiries, if received at least ten (10) calendar days prior to the date scheduled for opening the bids, unless otherwise noticed. The Village shall record its responses to inquiries and any supplemental instructions in the form of a written addendum. If addenda are issued, the Village **shall make every attempt to issue such** addenda at least seven (7) calendar days before the date fixed for receiving the proposals, unless otherwise noticed. **Written addenda shall be disseminated via DemandStar.** No interpretation shall be considered binding unless provided in writing to the North Bay Village Chief Financial Officer, Angela Atkinson, at [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com). **It is the sole responsibility of the Bidder to ensure all addenda are received.**

**CONTACT WITH NORTH BAY VILLAGE PERSONNEL OTHER THAN PURCHASING STAFF OR A DESIGNATED REPRESENTATIVE REGARDING THIS INVITATION TO BID SHALL BE GROUNDS FOR ELIMINATION FROM THE PROCESS.**

9. **INTERPRETATIONS AND ADDENDA:** All Bidders shall carefully examine the Bid Documents. Any ambiguities or inconsistencies should be brought to the attention of the Purchasing Department through written communication prior to opening of the bids. Failure to do so on the part of the Bidder shall constitute an acceptance by the Bidder of any subsequent decision by the Village. The Village will receive written requests for clarification concerning the meaning or interpretation of this ITB by issuance of addenda via DemandStar, until ten (10) days prior to the bid opening date, unless otherwise noticed. Questions shall be emailed to [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com) with reference to the ITB number in the subject for faster recognition only questions answered by formal written Addenda issued by the Village Purchasing Department shall be binding. Oral and other interpretations or clarifications shall be without legal effect.

It is the sole responsibility of the Bidder to ascertain whether any addenda to this Invitation to Bid has been issued, and to submit all such addenda properly acknowledged with the Bid response.

The Village may delay scheduled due dates if it is to the advantage of the Village. The Village shall notify Bidders of all changes in scheduled due dates by written addenda.

10. **BID DOCUMENTS:** Solicitation Documents may be obtained by registering with DemandStar in order to receive all required documents and notification of addenda. Register for FREE at <http://www.demandstar.com/subscriptions> "FREE AGENCY", toll-free 1-866-276-1863. Bidders who obtain solicitation documents from any other source are cautioned that the solicitation package may be incomplete.

Complete sets of Bid Documents shall be used in preparing Bids. The Village and EOR disclaims any responsibility for errors or



misinterpretations resulting from the use of incomplete sets of Bid Documents.

The Village and the EOR in making copies of the Bid Documents available on the above terms do so only for the purpose of obtaining bids on the work and do not confer a license or grant for any other use.

11. **UNIT PRICES:** Where a discrepancy between unit price and total price is indicated on a Bidder's submitted Schedule of ITB Prices or Bid Form, the unit prices shall prevail.
12. **IRREGULARITIES:** Bids not meeting stated minimum terms and qualifications may be rejected by the Village as non-responsive or irregular. However, the Village reserves the right to waive any irregularities, technicalities or informalities in any bid. The Village reserves the right to allow for the clarification of questionable entries and for the correction of typographical and mathematical errors.
13. **BID SUBMISSION:** Bidders should submit their bid indicating their name and Project Name, ITB Number, and time and date of the ITB opening. The submission of bids shall be submitted electronically through [www.DemandStar.com](http://www.DemandStar.com) by Bidders responding to this ITB no later than the designated deadline date and time. A Bidder's failure to submit as required before the deadline shall cause their bid submittal to be disqualified. Late bids will be retained unopened.
  - 11.1 All submittals must be compatible with Microsoft Office or Portable Document Format (PDF). The Bidder can only view/submit his/her Electronic Submittal and will not have access to any other Bidder's submittals. The Bidder's Electronic Submittal may be changed at the Bidder's discretion until the ITB Due Date and Time is reached. The Bidder will no longer be allowed to change or have access to the electronic submittal after the ITB Due Date and Time as the Village will open all bids on said date. Any Bidder who is submitting an Electronic Submittal for the first time is strongly encouraged to contact DemandStar by e-mailing questions to [demandstar@demandstar.com](mailto:demandstar@demandstar.com).
  - 11.2 Submit the entire Bid Package by completing and returning all required documents. All submittals are required to be electronic and be contained in one (1) file. No hard copies will be accepted.
  - 11.3 Bids, once opened, become the property of the Village and shall not be returned to the Bidders. Upon opening, bids become "public records" and shall be subject to public disclosure in accordance with Chapter 119, Florida Statutes.
  - 11.4 Offers by facsimile, telegram, or telephone are **not** acceptable. All Bidders and their representatives are invited to attend. Tabulations are posted online at [www.demandstar.com](http://www.demandstar.com).
  - 11.5 Bids will be opened and read aloud publicly at the time and place indicated in the Invitation to Bid. Submittal of a Bid in response to this Invitation to Bid constitutes an offer by the Bidder.
  - 11.6 All Bids shall remain subject to acceptance for ninety (90) calendar days after the day of the Bid opening, but the Village may, at the sole discretion of the Village, release any Bid and return the Bid Security prior to that date.
  - 11.7 It is the sole responsibility of the Bidder to assure that his or her submittal is uploaded to DemandStar on or before the ITB Due Date and Time. The Village shall in no way whatsoever be responsible for any delays caused by any power outages or internet failures. No exceptions will be made.
14. **MODIFICATION OF BIDS:** Bids may only be modified, by an appropriate document duly executed, prior to the solicitation closing date and time. The Bidder must present certification to assure that they are indeed an authorized representative of the Bidder's firm at the time modification to the Bid is presented.

15. **BID FORM:** Bids must be submitted on the prescribed form; all blank spaces must be filled in as noted, in ink or typed with amounts extended and totaled. Where indicated on the Bid Form, items shall be stated in numbers. Bidders are required to bid all items to be considered. Bidder should not reference the words "No charge, N/A, included, etc." on any of the line items. Vendor must identify a monetary amount for each line item. If vendor is not providing a bid price for an item, zero (0) must be designated on that line item. Failure to identify a monetary amount for each item may cause Bidder's bid response to be considered non-responsive and rejected.

The Village reserves the right to accept any Bid or combination of Bid alternates, reject any and all Bids, waive any and all informalities, minor irregularities, to accept any item or group of items unless qualified by Bidder; to acquire additional quantities at prices quoted on the Invitation to Bid unless additional quantities are not acceptable, in which case the bid sheets must be noted "BID IS FOR SPECIFIED QUANTITY ONLY, and the right to disregard all nonconforming, non-responsive, unbalanced or conditional Bids or counter-proposals. In addition, the Village reserves the right to make a multiple award if it is in the best interest of the Village.

Failure to provide all of the information required to accompany the Bid, Bid Form and Specifications shall be considered a serious omission, which may result in the bid being rejected as non-conforming.

The Bid shall contain acknowledgment of receipt of all addenda (copies of which shall be attached to the Bid Form).

16. **EVALUATION FACTORS:** The Village reserves the right to reject the Bid of a non-responsive Bidder that the Village determines is of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Village. Further, A Bidder must be, at the time of the Bid opening, a fully authorized agent or representative of the product or service Bid, and capable of producing, providing or installing the items Bid, and so certify upon request.

The Village shall consider the firm's qualifications, compliance of requirements, and time of completion as evaluation factors. In addition, the Village may require the apparent successful Bidder to submit a Schedule of Values priced in line-item format including time frames (not dated) for staff to review prior to staff's actual award recommendation being submitted to the Village Commission.

Any inconsistencies shall be brought to the attention of the intended awardee for adjustment prior to award and acceptance of said schedule. An unbalanced Schedule of Values may result in rejection of the bid as non-responsive. Failure to produce said Schedule of Values within four (4) business days of the Village's request may result in the bid being rejected as non-responsive.

The Village may consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items or material, services, or equipment) proposed for those portions of the work as to which the identity of subcontractors and other persons and organizations must be submitted.

The Village may also consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the work when such data is required to be submitted prior to the Notice of Tentative Award.

16. **AWARD OF CONTRACT:** The Village reserves the right to award item by item, and/or group by group or on an all or none basis to the



lowest responsive, responsible Bidder that provides the best value to the Village.

NO AWARD RECOMMENDATION SHALL BE BROUGHT BEFORE THE COMMISSION FOR CONSIDERATION TO AWARD UNTIL THE CONTRACTOR/BIDDER HAS PRESENTED A SIGNED ORIGINAL OF THE CONTRACT OR PURCHASE ORDER ALONG WITH ANY OTHER REQUIRED DOCUMENTS TO THE PURCHASING DEPARTMENT.

NO AWARD SHALL BE DEEMED FINAL AND SHALL BE DEEMED CONDITIONAL, UNTIL THE PARTIES HAVE FULLY EXECUTED THE AGREEMENT(S) OR A PURCHASE ORDER HAS BEEN ISSUED BY THE COMMISSION TO THE BIDDER. THE COMMISSION RESERVES THE RIGHT TO REVOKE ANY AWARD MADE HEREUNDER, WITHOUT PENALTY, PREMIUM OR OBLIGATION, AT ANY TIME PRIOR TO THE DELIVERY OF THE FULLY EXECUTED AGREEMENT(S) OR PURCHASE ORDER. NO BIDDER SHALL BE ENTITLED TO RELY ON ANY ANNOUNCEMENT OF AN AWARD, AND THE COMMISSION SHALL IN NO WAY BE ESTOPED IN THE REVOCATION OF AN AWARD PREVIOUSLY GRANTED.

Section 119.071(1) (b) 2., F.S., provides an exemption for "sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation" until such time as the agency provides notice of an intended decision or until 30 days after opening "the bids, proposals, or final replies," whichever is earlier.

17. **BID TABULATION:** Bid tabulations shall be posted on [www.DemandStar.com](http://www.DemandStar.com) within ten (10) days after the bid opening.

18. **CONTRACTUAL AGREEMENT:** The submission of your Bid constitutes a firm offer by the Bidder. Upon acceptance by the Commission, the Purchasing Department shall issue a notice of award and purchase order(s) and/ or contract for any supplies, equipment and/or services as a result of this bid. The Invitation to Bid and the corresponding purchase order(s) and /or contract shall constitute the complete agreement between the successful Bidder and the Commission. Unless otherwise stipulated in the bid documents or agreed to in writing by both parties, no other contract documents shall be issued or accepted.

The Village may attach as a part of this solicitation, a Sample Contract document. Bidders shall be responsible for complying with all of the terms and conditions of the Sample Contract document, except where variant or conflicting language may be included in any Special Conditions contained herein. Bidders shall note any deviation or variance with the Sample Contract document at the time of bid submission. Should no revisions be noted, the Village will assume, and the Contractor agrees that the terms and conditions of agreement are acceptable.

19. **CONTRACT TERMS:**

- a. A contract resulting from this document shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the State of Florida.
- b. Contractors providing service under this contract assure the Village that they are conforming to and otherwise complying with the following, as applicable:
  - The Civil Rights Act of 1964, as amended.
  - Clean Air and Water Pollution Acts, 42 U.S.C. 7401-7671q.
  - Federal Water Pollution Control Act, 33 U.S.C. 1251-1387.
  - Executive Order 11738.
  - EPA Regulation, 40 CFR Part 15, which prohibits the use under non-exempt federal contracts, grants or loans of facilities included on the EPA list of violating facilities.
  - Federal, state and local laws and regulations, including the Davis-Bacon Act, pertaining to wages, hours and

conditions of employment and 2CFR 200.317 – 200.326, if applicable.

- Energy Policy and Conservation Act, 42 U.S.C. 6201.
- Funding Agreement (Rights to Inventions) 37 CFR Part 401.
- Recovered Materials Section 6002 of Environmental Protection Agency (EPA) at 40 CFR Part 247.
- Equal Employment Opportunity, 41 CFR Part 60.
- Copeland "Anti-Kickback" Act, 40 U.S.C. 3145, as supplemented by the Department of Labor Regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by loans or grants from the United States".)
- Contract Work Hours and Safety Standards Act, 40 USC 3702 and 3704, as supplemented by Department of Labor Regulations (29 CFR Part 5), as applicable.

20. **SIGNING OF CONTRACT:** The Notice of Tentative Award will be presented to the Successful Bidder. The Legal Department shall issue the contract within ten (10) calendar days thereafter, the Successful Bidder shall sign and deliver the required number of counterparts of the Construction Contract to Village. Upon approval, the Village shall request the required bonds and insurance certificates. The aforementioned documents must be submitted to the Village prior to any work being performed. After receipt of requested documents, the executed contract, purchase order, and notice to proceed will be presented to the Awarded Bidder. Each counterpart is to be accompanied by a complete set of the Drawings.

21. **CONTRACT DEFAULT:** In the event the Contractor fails to enter into a contract with the Village on the basis of the submittal, such action shall constitute a default of this agreement. Further default may be declared by the Village if the Contractor violates the terms of the submitted document in any manner. Upon default of this agreement and/or any agreement resulting from this agreement, the Village shall be entitled to pursue all remedies available at law and/or in equity, including, but not limited to, the recovery of damages equaling the difference of the submitted price and the price the Village subsequently pays to secure performance from other sources. Damages may be assessed and deducted against any funds due and owing to the Contractor.

In the event any litigation occurs between the parties as a result of the contract, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs for any such action.

At the discretion of the Village, any Contractor found in default of this agreement and/or any agreement resulting from this agreement, shall be removed from the Contractor list for a period of up to three (3) years from the date of said default. Default under this agreement and/or any other agreement(s) in which the Village has contracted with the Contractor, may also, at the discretion of the Village, result in termination of any other such agreement(s).

22. **TERMINATION OF CONTRACT:** This contract may be terminated without liability to the Village in whole or in part when it is deemed to be in the best interest of the Village to so act. Notification of termination must be in writing and issued by the Village Manager or designee. This contract may be terminated upon 30 days written notice. The contract may also be terminated for cause upon written notification to the Contractor. The Contractor, as the defaulting party, shall have 30 days to cure any nonconformity to offered terms and specifications. The Village, upon termination, shall exercise its discretion to complete the balance of the contract consistent with the best interest of the Village. The Village delegates the authority to terminate the contract to the Village Manager or designee. At the discretion of the Village, the Contractor may be removed from future solicitation opportunities for a period up to three (3) years.





23. **REJECTION / DISQUALIFICATION OF BIDDER:** The Commission, at its sole discretion, reserves the right to reject any and all bids, accept any bid or any combination of bids or waive any minor irregularity or technicality in bids received, when in its sole judgment, it shall best serve public interest. The right is reserved to reject any and all Bids or to accept the one deemed by the Village to be the most advantageous. Contractor's bid shall be rejected as non-responsive if any of the following exist (this list is not all inclusive):

- More than one Bid from an individual, firm, partnership, corporation, or association under the same or different names shall not be considered.
- The Village reserves the right to reject the bid of any Bidder in arrears or in default upon any debt or contract to the Village or who have failed to perform faithfully any previous contract with the Village or with other governmental jurisdictions.
- If there is reason to believe that collusion exists between Bidders.
- Bids that are judged to be mathematically or materially unbalanced shall be rejected.
- The Bid Package is found to have concealed or contained false and/or misleading information.
- Executed requested Attachments/Affidavits are not completed or submitted.
- Incomplete execution of documents, Bidder signature page, and Bid submittal form.
- Not licensed to perform the required work or provide the required product.
- Not eligible to bid due to violations listed under, Public Entity Crimes.
- Submission of an irregular bids. Failure to fill out forms completely, indicating compliance or deviation for each item may be used as reason for rejection.
- Non-compliance with applicable laws or contains any unauthorized additions or deletions or contains irregularities of any kind is considered incomplete, indefinite, or ambiguous as to its meaning.

24. **EXECUTION OF BID:** Bidders shall submit their bid response electronically as described above. For this purpose, all references herein to signing requirements or other required acknowledgments hereby include either a manual signature in blue ink or by electronic digital signature by an authorized officer of the proposing firm who is legally authorized to enter into a contractual relationship in the name of the Bidder. Bid must be typed or legibly printed in ink. Use of erasable ink is not permitted. All corrections made by Bidder to any part of the Bid document must be initialed in ink. The respondent agrees that the action of electronically submitting its response constitutes the following:

- An electronic signature on the responses.
- An electronic signature on any form or section specifically calling for a signature and
- An affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.
- Compliance to electronic signatures as specified in F.S. Chapter 668.

The bid submittal of a Statement of Bid by the Bidder shall be considered by the Village as constituting an Offer by the Bidder to perform the required services.

Bids by corporations must be executed in the corporate name by the President or Vice President (or other corporate officer accompanied by evidence of authority to sign), and the corporate seal shall be affixed and attested by the Secretary or Assistant Secretary. The corporate address and State of Incorporation shall be shown below the signature.

Bids by partnership must be executed in the partnership name and signed by a general partner, his title must appear under his signature and the official address of the partnership must be shown below the signature.

All names of persons signing documents must be typed or printed below the signature.

25. **NO BID:** If not submitting a Bid, please respond no later than the Bid opening date and time, by returning the acknowledgment, noting the reason for declining. An addendum may be issued to remedy providing the circumstances are determined reasonable.

26. **WITHDRAWAL OF BIDS:** All Bids shall be irrevocable unless the Bid is withdrawn as provided herein. All Bids may be withdrawn only by written communication delivered to the Purchasing Department prior to the solicitation closing date and time. The Bidder must present certification to assure that they are indeed an authorized representative of the Bidder's firm at the time such communication to withdraw the Bid is presented. A Village representative shall verify this information prior to return of the Bid and Bid Security, if applicable.

However, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed written notice with the Village and successfully demonstrates that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid Security will be returned. Bidder shall be disqualified from further bidding on the work to be provided under the Bid Documents.

27. **CONFLICT OF INTEREST:** All Bidders must disclose with their Bid the name of each of its employees, agents, or relatives who are employees of the VILLAGE.

The Bidder represents and warrants to the Village the following:

- No officer, employee, or agent of the Village has any interest, either directly or indirectly, in the business of the Bidder to be conducted hereunder.
- Bidder has not employed or retained any company or person, other than a bona fide employee working solely for the Bidder, to solicit or secure this contract, and that it has not paid, or agreed to pay any person, company, corporation, individual, or firm, other than bona fide Personnel working solely for the Bidder any fee, commission, percentage, gift or other consideration, contingent upon, or resulting from the award or making of this contract.
- Bidder acknowledges that it has not agreed as an expressed or implied condition for obtaining this contract, to employ or retain the services of any person, company, individual or firm in connection with carrying out this contract.
- Bidder represents that it presently has no interest, either direct or indirect, while performing the services required by this contract, which would conflict in any manner with Florida Statutes.
- Bidder represents that no person having any such interest shall be employed during the term of this contract, including any officer, employee or agent of the Village.
- Bidder represents and warrants that it has no current contracts with any entity that would create any conflict of interest in the Bidder's ability to perform the services required



by this contract. Further, the Contractor represents and warrants that throughout the term of this contract, it will not undertake any work that would create such a conflict of interest.

It is understood and agreed by the Bidder that, upon the breach or violation of this Section, the Village shall have the right to terminate the contract without liability and at its sole discretion, and to deduct from the contract price, or to otherwise recover, the full amount of such fee, commission, percentage, gift or consideration paid by the Bidder.

The Bidder shall promptly notify the Village in writing by certified mail or electronic mail of all potential conflicts of interest for any prospective business association, interest or other circumstance that may influence or appear to influence the Bidder's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Bidder may undertake and request an opinion of the Village as to whether the association, interest or circumstance would, in the opinion of the Village, constitute a conflict of interest if entered into by the Bidder. If, in the opinion of the Village, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Bidder, the Village shall so state in the notification and the Bidder shall, at its option, enter into such association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the Village by the Bidder under the terms of this Contract.

28. **NON-COLLUSION:** By submitting a bid, the Bidder certifies that it has not divulged discussed or compared its Bid with other Bidders and has not colluded with any other Bidder or parties to a Bid whatsoever. (Note: Premiums, rebates or gratuities are not permitted with, prior to, or after any delivery of material.) Any such violation shall result in the cancellation and/or return of materials (as applicable) as being non-conforming.
29. **PUBLIC ENTITY CRIMES:** The Bidder certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by the State of Florida or Federal Government. Further, Bidder certifies that it has divulged, in its bid response information regarding any of these actions or proposed actions with other governmental agencies.

Pursuant to Section F.S. 287.133, FS as amended: 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 on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a Vendor, supplier, sub vendor, 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 F.S. 287.017 for CATEGORY TWO or higher for a period of 36 months from the date of being placed on the convicted vendor list.

The awarded Bidder or any subcontractor shall not employ any persons with multiple felonies. The awarded Bidder must provide documented proof of efforts to comply with this requirement. The Owner may declare any noncompliance or lack of diligent effort by the awarded Bidder to comply as a breach of contract and immediately terminate the services of the awarded Bidder.

Any employees involved in any F.S. Chapter 435, Florida Statutes offenses are precluded from continuing to work on a project and must be replaced. Failure to comply may result in the immediate termination of the awarded Bidder's contract at the sole discretion of the Village. Lack of knowledge by the Bidder shall in no way be

a cause for relief from responsibility.

30. **PUBLIC RECORDS:** Any material submitted in response to this Invitation to Bid shall become a public document pursuant to Section 119.07, FS. This includes material that the responding BIDDER might consider to be confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening of Bids pursuant to Section 119.07, FS.

Section 119.071(1)(b)2., F.S., provides an exemption for "sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation" until such time as the agency provides notice of an intended decision or until 30 days after opening "the bids, proposals, or final replies," whichever is earlier.

**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 contract, contact the custodian of public records, the Village Clerk, at (305)756-7171, 1666 Kennedy Causeway, Suite 300, North Bay Village, Florida, 33141.**

In compliance with F.S. 119.0701 the Contractor shall:

- Keep and maintain public records required by the public agency to perform the service.
- Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.
- 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 contract if the contractor does not transfer the records to the public agency.
- Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, 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 contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the



requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

- If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.
  - A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.
  - If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:
    1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
    2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.
  - A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
31. **LICENSES:** Bidders, both corporate and individual, must be fully licensed and certified for the type of work to be performed in the State of Florida at the time of receipt. The submittal of any bid from a Contractor that is not fully licensed and/or certified shall be rejected.
32. **PERMITS:** The Bidder(s) shall be responsible for obtaining any necessary permits and shall comply with laws, rules, and regulations whether state or federal and with all local codes and ordinances without additional cost to the Village.
33. **SUNBIZ:** Bidders, both corporate and individual, must provide proof that their firm is registered with the Division of Corporations for the State of Florida.
34. **BUSINESS TAX RECEIPT:** Bidder shall comply with Business Tax Receipt requirements for their business location, if applicable. A copy of the business tax receipt or proof of exemption must be included with the submittal package, if applicable.
35. **BIDDER MAILING ADDRESS:** It is the responsibility of every Bidder to register and maintain their current registration information. Bidders that have received the ITB from DemandStar.com must maintain their information on the DemandStar database. The information used by the Purchasing Department is maintained at <http://www.demandstar.com>. DemandStar shall be used to make notice of ITBs and other information to Bidders.
36. **ANTI-DISCRIMINATION:** The Bidder certifies that they are in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375 relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. The

provisions of the ADA Act of 1990 pertaining to employment shall also be applicable.

The Bidder shall not discriminate on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring, or treatment of sub-contractors, vendors, suppliers, or commercial customers. Bidder shall provide equal opportunity for sub-contractors to participate in all of its public sector and private sector sub-contracting opportunities. Bidder understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, or other sanctions.

37. **JOINT BIDS:** In the event multiple bidders submit a joint Bid in response to the BID, a single proposer shall be identified as the Prime Vendor. If offering a joint Bid, Prime Vendor must include the name and address of all parties of the joint Bid. Prime Vendor shall provide all bonding and insurance requirements, execute any Contract, complete the **REQUIRED RESPONSE FORM** shown herein, and have overall and complete accountability to resolve any dispute arising within this contract. Only a single contract with one proposer shall be acceptable. Prime Vendor responsibilities shall include, but not be limited to, performing of overall contract administration, preside over other proposers participating or present at Village meetings, oversee preparation of reports and presentations, and file any notice of protest and final protest as described herein. The Prime Vendor shall also prepare and present a consolidated invoice(s) for services performed. The Village shall issue only one check for each consolidated invoice to the Prime Vendor for services performed. The Prime Vendor shall remain responsible for performing services associated with response to this Bid.
38. **LOBBYING:** Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of Commission member or Village personnel after advertisement and prior to the posted recommendation on the award of the Contract.
- Bidders are hereby advised that they are not to lobby with any Village personnel or Commission members related to or involved with this bid until recommendation for award. All oral or written inquiries must be directed through the Purchasing Department.
- Any Bidder or any individuals that lobby on behalf of Bidder during the time specified shall result in rejection / disqualification of said bid after a finding of unlawful lobbying by the Miami Dade Commission on Ethics.
39. **BYRD ANTI-LOBBYING AMENDMENT:** Contractors that apply or propose for an award of \$100,000 or more must file the required certifications. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress with or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the non-Federal award.
41. **KICKBACKS:** Any Contractor giving or offering to any employee and/or official of the Village, either directly or indirectly, any rebate, percentage of contract, money or other things of value as an inducement or intended inducement, in the procurement of this or any other solicitation, shall be deemed in violation of this



agreement, in addition to being in violation of any other municipal, county, state and federal laws and/or ordinances.

42. **CONE OF SILENCE:** A cone of silence is hereby established for all competitive selection processes for the provision of goods and services. The cone of silence is designed to protect the integrity of the procurement process by shielding it from undue influences prior to the recommendation of contract award. This cone of silence shall be imposed on these procurements after advertisement of same.

The cone of silence prohibits any communication regarding a competitive solicitation process. The cone of silence commences after the advertisement of the competitive solicitations. Competitive procurements are advertised on the purchasing department's web page or in a newspaper of general circulation.

The cone of silence terminates when the Village Manager makes a written recommendation to the Village Commission. The cone of silence can be reimposed if the Village Commission rejects the Manager's written recommendation.

"Cone of Silence," as used herein, means a prohibition on any communication regarding this Request for Proposal ("RFP"), "ITB", or "RFQ". Pursuant to Section 2-11.1(t) of the County Code, the Cone of Silence remains in effect until the Village Manager has made a written recommendation to Village Commission. During the Cone of Silence, the following is prohibited: Any communication (oral or written) regarding this solicitation between a potential vendor, service provider, Proposer, lobbyist, or consultant and the Village Commission, evaluation committee members or the Village Manager and the Manager's professional staff, unless permitted by one of exceptions.

Any written communications or inquiries, except for clarification of process or procedure already contained in the solicitation, are permitted provided the written communications are directed to Angela Atkinson, Chief Financial Officer, at [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com). Such written inquiries or requests for information shall contain the requester's name, address, and telephone number. If transmitted by facsimile, the request should also include a coversheet with Proposer's facsimile number. The request may also be electronically sent to [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com) or mailed to the Chief Financial Officer, 1666 Kennedy Causeway, Suite 300, North Bay Village, FL, 33141. Written communications to other Village officials or employees are prohibited until the Cone of Silence has been lifted.

The purchasing department and the Village Manager shall ensure that all solicitations include provisions describing the requirements and prohibitions of the cone of silence, including how a potential vendor, service provider, Bidder, lobbyist, or Consultant may communicate with Village personnel.

Any person, whether employed by the Village or not, who knowingly violates a provision of this policy shall be prohibited from serving on a Village competitive selection committee.

Violation of this policy by a particular Bidder, proposer, respondent, and/or representative may, at the discretion of the Village, result in rejection of said Bidder, proposer, respondent, and/or representative's bid, proposal, or offer and may render any contract award to said Bidder, proposer, or respondent voidable.

In addition to any other penalty provided by law, violation of this policy by a Village employee shall subject said employee to disciplinary action up to and including dismissal from service.

43. **ASSIGNMENT:** The successful Bidder shall not assign, transfer, convey, sublet, or otherwise dispose of the contract, or of any or all of its rights, title, or interest therein, or its power to execute such contract to any person, firm, or corporation without prior written consent of the Village.

44. **SUBCONTRACTING:** If an awarded Bidder intends to subcontract any portion of the Contract for any reason, the name and address of the subcontracting firm must be submitted along with the Bidder's submittal or prior to use for approval. No subcontracting shall take place prior to Bid awarded to Bidder furnishing this information and receiving written approval from the Village. The Purchasing Department reserves the right to reject a subcontractor who previously failed in the proper performance of a contract or failed to deliver on-time contracts of a similar nature, or who, the Village has determined in its sole discretion, is not in the position to perform the contract due to the subcontractor's size, experience, or resources. The Village reserves the right to inspect all facilities of any subcontractor in order to make determination as to the foregoing. The subcontractor shall be equally responsible for meeting all requirements specified in the ITB.

Nothing contained in this ITB will be construed as establishing any contractual relationship between any sub-bidder(s) and the Village. The awarded Bidder(s) shall be fully responsible to the Village for the acts and omissions of the subcontractor (s) and their employees. After award of contract, any changes in subcontractors requires prior Village written approval.

46. **REPRESENTATIVE:** At all times during the term of the contract, the successful Contractor shall act as an independent Contractor and at no time shall be considered an agent or partner of the Village.
47. **BID AS PUBLIC DOMAIN:** All documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of chapter 119, Florida Statutes. This includes material that the responding Bidder might consider to be confidential or a trade secret. The Bid will become part of the public domain upon opening. **Respondents shall not submit pages marked "proprietary" or otherwise "restricted"**.
48. **BONDING GUARANTY/EVIDENCE:** The Bid submittal **must** be accompanied by a notarized letter from your firm's Surety guaranteeing that if your firm is awarded a contract, the Surety will issue a letter of credit that attests to the bonding capacity (the maximum amount of surety credit a surety company) will provide to a contractor, contingent upon a top-notch organization, strong financial presentation, and experience. The Surety shall also guarantee your firm by issuing Performance and Payment bonds as required by the Village. Failure to submit the Surety Guaranty letter with your Bid shall cause your bid to be rejected as non-responsive. The Village shall be the sole judge in determining Bonding Capacity.





## SECTION III

### GENERAL TERMS AND CONDITIONS

These general terms and conditions apply to all offers made to North Bay Village, Florida, by all prospective Bidders, including but not limited to, Request for Quotes, Invitations to Bid, and Request for Proposals. As such the words "RFP", "Bid", and "Proposal" are used interchangeably in reference to all offers submitted by prospective Bidders.

**Where there appears to be variances or conflicts between the General Terms and Conditions, Supplementary Conditions, and the Special Conditions and/or Detailed Specifications outlined in this ITB, Section III, General Terms and Conditions, Item #2, Order of Precedence shall prevail.**

1. **ADVERTISING:** In submitting a Bid, Bidder agrees not to use the results there from as a part of any commercial advertising.
2. **ORDER OF PRECEDENCE:** In resolving conflicts resulting from errors or discrepancies in any of the ITB or Contract Documents, the order of precedence (lower number item controls) shall be as follows:
  - Amendment
  - Change Order
  - Contract/Agreement or Purchase Order
  - Addenda
  - Bid Form, if applicable
  - Technical Specifications/Attachments
  - Special Conditions
  - Supplementary Conditions
  - General Terms and Conditions
  - Instructions to Bidders
  - Invitation to Bid

3. **BID SECURITY:** When required by the Bid documents each Bid must be accompanied by a Bid security made payable to North Bay Village in an amount of five percent (5%) of the Bidder's maximum Bid price and in the form of a certified check or cashier's check drawn upon any State or National Bank of Florida or a Bid Bond issued by a Surety that must have a "Best" rating of "A", and be authorized to do business in Florida.

Said check or Bid Bond shall be made payable to North Bay Village and shall be given as a guarantee that Bidder, upon receipt of Notice of Tentative Award of the purchase order or contract, shall enter into the Contract or accept the purchaser order with the Village, and furnish the necessary documents including, but not limited to: insurance certificates, other required Bonds, each of the said Bonds to be in the amount stated on the Invitation to Bid.

The Attorney-in-Fact who signs the bond must file with the bond a current certificate of proof of appointment as Attorney-In-Fact.

The Bid Security of the Successful Bidder shall be retained until such Bidder has been awarded a binding Contract or Purchase Order or Contract security whereupon the Bid security shall be returned. If the apparent Successful Bidder fails to execute and deliver the Purchase Order or Contract and furnish the required contract security within ten (10) calendar days after the Notice of Award, which is issued prior to the Village's award of Purchase Order or Contract, the Village may annul the Notice of Award, and the bid security of that Bidder shall be forfeited and retained by the Village. The Village may then recommend to the Commission to accept the Bid of the next lowest responding Bidder or re-advertise for bids. If the Bid of the next lowest Bidder is accepted, this acceptance shall bind such Bidder as though it was the original Successful Bidder.

There shall be no binding contract until such time as the Commission or designee executes the Contract or issues the Purchase Order as the final award of the contract. The Bid Security of other Bidders whom Village believes to have a reasonable chance of receiving the award may be retained by the Village until the earlier of the seventh day after the effective date of the Purchase Order or Contract or the ninety-first day after the Bid opening, whereupon Bid security furnished by such Bidders shall be returned. Bid security with Bids which are not competitive or responsive shall be returned upon award of the Bid.

4. **EXAMINATION OF BID DOCUMENTS & SITE:** Pursuant to Article 4, Supplementary Conditions, Bidder must satisfy itself by personal and thorough examination of the location of the proposed Work, Bid Documents, requirements of the Work and the accuracy of the estimate of the quantities of the Work to be done; and Bidder shall not at any time after the submission of a Bid dispute or complain of such estimate nor the nature or amount of Work to be done.

By submission of its Bid, Bidder affirms that it has, at its own expense, made or obtained any additional examinations, investigations, explorations, tests, and studies and obtained any additional information and data which pertain to the physical conditions (surface, subsurface, and Underground Utilities) at or contiguous to the site or otherwise, prior to bidding which may affect cost, progress, or performance of the Work and which Bidder deems necessary to determine its Bid for performing the Work in accordance with the time, price, and other terms and conditions of the Bid Documents and/or Bidder has satisfied itself with respect to such conditions and it shall make no claims against the Village or the EOR if on carrying out the Work it finds that the actual conditions do not conform to those indicated.

On request, the Village will provide Bidder access to the site to conduct such investigations and tests, as Bidder deems necessary for submission of its Bid. Bidder shall schedule such access in advance with the Village.

Upon completion of such additional field investigations and tests, Bidder shall completely restore disturbed areas.

5. **ADJUSTMENTS/CHANGES/DEVIATIONS:** No adjustments, changes, or deviations shall be accepted on any item unless conditions or Specifications of a Bid expressly so provide. All adjustments, changes or deviations shall require prior written approval and shall be binding **ONLY** if issued through the Village's Purchasing Office.

6. **BID EXEMPT:** Purchases shall not include any items or services available at lower prices on other public entity or State of Florida Contract. The Village reserves the right to Bid separately any item or service if deemed to be in the best interest of the Village.



5. **PROMOTIONAL PRICING:** In addition, Bidder shall offer to the Village, during the Contract period, any item(s) offered on a "promotional" basis from the manufacturer. It shall be the successful Bidder's responsibility to monitor said item(s) and report any that are or shall be offered at lower price.
6. **CONTRACT SECURITY/INSURANCE:** When required by the specification herein, the successful Bidder shall furnish, a Performance Bond, Payment bond, and/or Warranty bond, and insurance certificates as stated on the cover page of this solicitation, on the VILLAGE's forms, within ten (10) calendar days after notification of award. Failure to furnish the required bonds within the time specified may be cause for rejection of the bid and any bid deposit may be retained by the VILLAGE as liquidated damages and not as a penalty. Said sum shall be a fair estimate of the amount of damages the VILLAGE would sustain due to BIDDER's failure to furnish said bonds.
7. **PRICES:** Bid prices shall be fixed and firm to the extent required under Special Conditions. In the absence of a reference in the Special Conditions, bid prices shall be fixed and firm for a period of ninety (90) calendar days. Give both unit price and extend total. Prices must be stated in units of quantity specified in the bid specifications. In case of a discrepancy in computing the amount of the bid, the UNIT PRICE quoted shall govern. All prices FOB destination, freight prepaid (unless otherwise stated in special conditions). Each item must be bid separately, and no attempt is to be made to tie any item or items in with any other item or items. Payment shall be made only after receipt and acceptance of materials/services. Cash discounts may be offered for prompt payment; however, such discounts shall not be considered in determining the lowest net cost for bid evaluation.

All payments shall be governed by the *Local Government Prompt Payment Act*, F.S. Chapter 218.

8. **DELIVERY:** All items shall be delivered F.O.B. destination to a specific Village address. All delivery costs and charges must be included in the bid price. The Village reserves the right to cancel orders or any part thereof, without obligation if delivery is not made at the time specified in the bid.

Unless actual date of delivery is specified, show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award.

9. **MISTAKES:** Bidders are expected to examine the Specifications, Plans, Delivery Schedule, Bid prices, Extensions and all Instructions pertaining to supplies and services. **FAILURE TO DO SO SHALL BE AT THE BIDDER'S RISK.** In the event of extension error(s), the unit price shall prevail, and the Bidder's total offer shall be corrected accordingly. Erasures or corrections on Bids must be initialed in ink by the Bidder.

Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit price. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

10. **INVOICING AND PAYMENT:** Payment for any and all invoice(s) that may arise as a result of a Contract or Purchase Order issued pursuant to this Bid Specification shall minimally meet the following conditions to be considered as a valid payment request. Timely submission of a property certified invoice(s) in strict accordance with the price(s) and delivery elements as stipulated in the Contract document should be submitted to:

North Bay Village  
 Attn: Accounts Payable Department  
 1666 Kennedy Causeway, Suite 300  
 North Bay Village, FL., 33141  
[ap@nbvillage.com](mailto:ap@nbvillage.com)

All invoices shall be based upon and submitted with an approved Schedule of Values. Said Schedule of Values shall also contain a

percentage breakdown of the supplies and services completed for which payment is requested in comparison to the total contract.

All invoices submitted shall consist of an original and one (1) copy;

- clearly referenced the subject Contract or Purchase Order number;
- provide a sufficient salient description to identify the goods or services for which payment is requested;
- contain date of delivery;
- original or legible copy of a signed delivery receipt including both manual signature and printed name of a designated Village employee or authorized agent; be clearly marked as "partial", "complete" or "final" invoice. The Village shall accept partial deliveries.

The invoice shall contain the Bidder's Federal Employer Identification number.

The Village's terms of payment, unless otherwise stated in the Contract or Purchase Order documents, are "Net 30 Days" after acceptance of goods or services and receipt of an acceptable invoice as described herein. Any other items of payment must have been previously approved by the Village and appear on the Contract or Purchase Order document to be binding on the Village.

Should the Village return an invoice for correction, the Vendor shall resubmit a corrected invoice to the Village for processing.

Payment will be made after the goods/services from the awarded Proposer have been received/completed; inspected and found to comply with negotiated contract, free of damage or defect; and a properly billed invoice is received and processed in the Accounting Services Department.

11. **ESTIMATED QUANTITIES:** The estimate of the various quantities of goods and services applicable to unit price items as shown on the Bid Form is approximate and is intended solely to provide the basis of comparison upon which the Award of Contract is made. Final payment shall be made on the basis of the actual quantities received.

The Village reserves the right to increase or reduce the quantities and to completely eliminate any items listed in the Bid Form in order that the items or work can be completed within the amount of available funds.

12. **BRAND NAMES:** Use of a brand name, trade name, make, model, manufacturer, or vendor catalog number in specifications is for the purpose of establishing a grade or quality of material only. It is not the Village's intent to rule out other competition, therefore, the phrase OR ACCEPTABLE EQUAL is added. However, if a product other than that specified is bid, it is the vendor's responsibility to submit with the proposal brochures, samples and/or detailed specifications on items bid. The Village shall be the sole judge concerning the merits of proposal submitted.

Bidder shall indicate on the Bid form the manufacturer's name and number if bidding other than the specified brands and shall indicate ANY deviation from the specifications as listed. Other than specified items offered requires complete descriptive technical literature marked to indicate detail(s) conformance with specifications.

The items bid must be new and equal to or exceed specifications. The manufacturer's standard guarantee shall apply. During the guarantee period the successful bidder must repair and/or replace the unit without cost to the Village with the understanding that all replacements shall carry the same guarantee as the original equipment. The successful bidder shall make any such repairs and/or replacements immediately upon receiving notice from the Village.



- 13. **UNBALANCED BIDS:** Bids that are judged to be mathematically or materially unbalanced shall be cause for the bid to be rejected as non-responsive.
- 14. **ESTIMATED DOLLAR VALUE:** No guarantee of the dollar amount of this Bid is implied or given.
- 15. **INCORRECT PRICING/INVOICES:** Any pricing on invoices that are incorrect and were not included on the original Purchase Order, must be brought to the attention of the Purchasing Agent and corrected prior to the shipment(s) of goods or initiation of services. Additional costs that were not brought to the Village's attention and did not receive written approval via a Change Order issued by the Purchasing Agent shall not be honored.
- 16. **VILLAGE PURCHASING CARD:** The Village has authorized the use of a Purchasing Card to expedite small dollar purchases for materials, supplies, and other items needed for daily operations. Awarded Bidders may be presented these credit cards by authorized Village personnel for the above-mentioned purchases. Bidder (with the exception of travel). Purchase orders are strongly discouraged for purchasing materials and supplies under \$1,000.
- 17. **CHANGE ORDERS:** Any addition(s) to the Statement of Work or to a Purchase Order as a result of the ITB award that adds additional costs must be brought to the Village's attention and approved by the Purchasing Department prior to commencement of additional work, shipment of goods or the addition of unauthorized freight charges. Once approved, a Change Order shall be issued to include the additional costs and work may commence and/or shipment of goods can begin. Additional costs that were not brought to the Village's attention and did not result in a Change Order approved by the Purchasing Department shall not be honored.
- 18. **DISPUTES:** In case of any doubt or difference of opinion as to the services to be furnished hereunder, the decision of the Village shall be final and binding on both parties.
- 19. **BID PROTEST:** Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.
  - 21.1 Any person who is adversely affected by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision.
  - 21.2 With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the advertisement of the solicitation.
  - 21.3 The formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.
  - 21.4 In order for the Village to consider the protest, the protesting party shall deliver with the formal written protest to the Village a "protest bond" in the amount as follows:
    - 21.4.1 Twenty-five thousand dollars (\$25,000) or 2 percent (2%) of the lowest accepted proposal, whichever is greater, for projects valued over \$500,000; and
    - 21.4.2 Five percent (5%) of the lowest accepted proposal for all other projects, conditioned upon payment of all costs and fees which may be adjudged against the protestor in the administrative hearing.
    - 21.4.3 If at the hearing the agency prevails, it shall recover all costs and attorney's fees from the protestor; if the protestor prevails, the protestor shall recover from the agency all costs and attorney's fees.
    - 21.4.4 If the protest (with respect to 21.2 above) the protest bond shall be the same as 21.4.1 and 21.4.2, except that the protest bond amount shall be calculated against the budgeted amount of the project.
- 22. **DEBARMENT:** The Commission shall have the authority to debar a person / corporation for cause for consideration or award of future contracts. The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.
- 23. **FEDERAL DEBARMENT CERTIFICATION:** Certification regarding debarment, suspension, ineligibility and voluntary exclusion as required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR, Part 85, as defined at 34 CFR Part 85, Sections 85.105 and 85.110-(ED80-0013).
 

The prospective lower tier participant certifies, by submission and signature of this submittal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this solicitation.
- 24. **DELETION/OVERSIGHT/MISSTATEMENT:** Any deletion, oversight or misstatement of the Specifications shall not release the Bidder from the responsibility of completing the project within the agreed upon time frame.
- 25. **SCRUTINIZED COMPANIES:** Pursuant to Sections 287.135, 215.4725, and 215.473, of the Florida Statutes which prohibits agencies from contracting with any company, principals, or owners on the Scrutinized Companies with Activities in Sudan List, participation in the Boycott of Israel, the Scrutinized Companies with Activities in the Iran Petroleum Energy List, and is not engaged in business operations in Cuba or Syria are prohibited from contracting for goods or services in any amount at the time of submitting to this solicitation through the term of this contract, including renewals or extensions.
 

Acceptance of an offer certifies Contractor attests that firm is not on any list, engaged in any business operations, or participates in activities as specified in this section. If firm is found negligent, contract shall be terminated; and submission of a false certification may subject firm to civil penalties, attorney's fees, and/or costs
- 26. **DEMONSTRATIONS/SAMPLES/MOCKUPS:** The Village may request a full demonstration of any product or service before the award of a contract. All demonstrations will be done at the expense of the Bidder.
 

When requested, samples are to be furnished free of charge to the Village. If a sample is requested, it must be delivered within seven (7) days of the request unless otherwise stated in the bid documents. Each sample must be marked with the following:

  - The Bidder's name, the bid item and the manufacturer's number.
  - Samples shall not be returned unless the Bidder requests it when samples are delivered.
  - Samples must be a complete pack, box, bag, etc. of the





required items(s), packaged as specified in the bid document.

- Failure to provide samples packaged as required by the bid specifications shall result in the item(s) and/ or the bid being rejected as nonconforming.
- Items may be tested for compliance with specifications under the direction of the Florida Department of Agriculture and Consumer Services, or an independent testing laboratory. Bidders shall assume full responsibility for payment for any and all charges for testing and analysis of any materials offered or delivered that **do not conform** to the minimum required specifications. Bidder's disposition of all items delivered in this category must be at no expense to the Village.

The Village may request a full demonstration of any product or service before the award of a contract. All demonstrations shall be done at the expense of the Bidder.

27. **COPYRIGHTS OR PATENT RIGHTS:** The Bidder warrants that there has been no violation of copyrights or patent rights in the manufacturing, producing or selling the goods shipped or ordered as a result of this ITB. The seller agrees to hold the Village harmless from all liability, loss or expense occasioned by any such violation.
28. **DEFAULT:** In case of default by the Bidder, the Village may procure the articles or services from other sources and hold the Bidder responsible for any excess costs incurred released.
29. **EMPLOYEES:** Employees of the awarded Bidder shall at all times be under its sole direction and not an employee or agent of the Village. The Awarded Bidder shall supply competent and physically capable employees. The Village may require the Awarded Bidder to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable. Awarded Bidder shall be responsible to the Village for the acts and omissions of all employees working under its directions.
30. **NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT:** The Bidder certifies that they are in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375 relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. The provisions of the ADA Act of 1990 pertaining to employment shall also be applicable.
- 30.1 During the performance of the Contract, the awarded Bidder shall not discriminate against any employee or applicant for employment because of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, marital status, political affiliation, familial status, age or disability in the solicitation, selection, hiring, or treatment of sub-contractors, vendors, suppliers, or commercial customers.
- 30.2 The awarded Bidder will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender or national original, or disability. Such actions must include, but not be limited to, employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 30.3 The awarded Bidder shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 30.4 The awarded Bidder further agrees that he/she will ensure that Subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause. Bidder shall provide equal

opportunity for sub-contractors to participate in all of its public sector and private sector sub-contracting opportunities.

30.5 Bidder understands and agrees that violation of this clause is a material breach of the contract and may result in contract termination, debarment, or other sanctions.

31. **TAXES:** The Village is exempt from all Federal, State, and Local taxes. An exemption certificate will be provided.
32. **SALES TAX:** All materials and supplies necessary for completion of this contract are subject to Florida Sales and Use Tax in accordance with Florida Statutes and shall be included in the Contract Price stated by the Contractor.
33. **DIRECT MATERIAL PURCHASES:** The Village reserves the right to issue purchase orders for materials to either the Contractor's or the Village's suppliers for construction related materials.
34. **UNIT PRICES:** Where a discrepancy between unit price and total price is indicated on a Bidder's submitted Schedule of ITB Prices or Bid Form, the unit prices shall prevail.
35. **EXCLUSIVE RIGHTS-USE OF OTHER CONTRACTS:** The right to provide the commodities and services granted under this contract shall not be exclusive. The Village reserves the right to utilize any other Village contract, any State of Florida Contract, any contract awarded by any other city or county governmental agencies cooperative ITB agreement, or to directly negotiate/purchase per Village policy in lieu of any offer received, or award made as a result of this ITB, if it is in the best interest to do so. The Village also reserves the right to separately ITB any single order or to purchase any item on this ITB if it is in its best interest to do so.
36. **COOPERATIVE PURCHASING AGREEMENTS:** All Bidders submitting a response to this ITB agree that such response also constitutes a bid to all State Agencies and Political Subdivisions of the State of Florida under the same conditions, for the same prices and for the same effective period as this bid, ***should the awarded Bidder(s) deem it in the best interest of their business to do so.*** This agreement in no way restricts or interferes with any state agency or political subdivision of the State of Florida to rebid any or all items.
37. **RIGHTS TO BID DOCUMENTS:** All copies and contents of any bid, attachment, and explanation thereof submitted in response to this ITB (except copyright material), shall become the property of North Bay Village, Florida. The Village reserves the right to use, at its discretion, and in any manner, it deems appropriate, any concept, idea, technique or suggestion contained therein. All copyright and industrial/commercial proprietary, confidential and/or privileged information such as financial records, must be clearly identified, as such confidentiality is protected until award of contract, in accordance with Chapter 119, F.S.
38. **SEVERABILITY:** Indulgence by the Village on any non-compliance by the Bidder does not constitute a waiver of any rights under this ITB. If any term or provision of this ITB or resulting Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this ITB or Contract, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term provision of this Bid/Contract shall be deemed valid and enforceable to the extent permitted by law.
39. **VENUE:** All contracts shall be governed by the laws of the State of Florida and venue shall be in Miami-Dade County, Florida. The venue of any legal action resulting from this Proposal shall be Miami-Dade County, Florida.



40. **EXPENSES:** Neither the VILLAGE nor its representatives shall be liable for any expenses incurred in connection with preparation of a response to this ITB. All expenses in the preparation of this ITB are the sole responsibility of the Bidder. All Submittals should be prepared to provide a straightforward and concise description of the respondents' qualifications and ability to meet the requirements of the ITB.
41. **IRREGULARITIES:** Proposals not meeting stated minimum terms and qualifications may be rejected by the Village as non-responsive or irregular. However, the Village reserves the right to waive any irregularities, technicalities or informalities in any proposal. The Village reserves the right to allow for the clarification of questionable entries and for the correction of typographical and mathematical errors.
42. **SOVEREIGN IMMUNITY:** No Waiver of Sovereign Immunity: Nothing contained herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.
43. **VERIFICATION OF EMPLOYMENT (E-VERIFY):** The Village shall not intentionally award contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions of the Immigration and Nationality Act ("INA"). The Village shall consider the employment by the Contractor of unauthorized aliens a violation of 8 U.S.C. Section 1324a(e) [Section 274A(e) of the INA]. The Contractor agrees that such violation by the Contractor shall be grounds for the unilateral cancellation of this Contract by the Village.
- a. Pursuant to Section 448.095, Florida Statutes, Contractor shall register with and use the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all employees hired during the term of this Agreement and must, upon request, provide evidence of compliance with this provision.
  - b. Subcontractors
    - (i) Contractor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement.
    - (ii) Subcontractors shall provide Contractor with an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as stated in Section 448.095, Florida Statutes.
    - (iii) Contractor shall provide a copy of such affidavit to the Village upon receipt and shall maintain a copy for the duration of the Agreement.
  - c. Failure to comply with this provision is a material breach of the Agreement, and the Village may choose to terminate the Agreement at its sole discretion. Contractor may be liable for all costs associated with the Village securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary).
44. **FLORIDA PREFERENCE:** Pursuant to Florida Statute 287.084, award recommendations shall make appropriate adjustments to pricing when considering bids from bidders having a principal place of business outside the State of Florida. If applicable, all bidders must complete and submit the Bidder's Statement of Principal Place of Business form with the response to this solicitation. Failure to comply shall render a bid non-responsive to the terms of this solicitation. This preference does not apply to purchases using Federal Funds.
45. **PERSONAL INJURY AND PROPERTY DAMAGE:** The Contractor assumes any and all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of the Contractor and the officers, employees, and agents thereof. The Contractor also assumes such risk with respect to the willful or
- negligent acts or omissions of persons subcontracting with the Contractor or otherwise acting or engaged to act at the instance of the Contractor in furtherance of this Contractor fulfilling the Contractor's obligations under this contract.
46. **TRADE-NAMED ITEMS:** When an item appearing in the solicitation document is listed by a registered trade name and the wording "no substitute", "spec only" or "only" is indicated, only that trade-named item will be considered. The Village reserves the right to reject products that are listed as approved and waive formalities. Should a vendor wish to have products evaluated for future solicitation consideration, please contact in writing, the Director of Purchasing. If the wording "no substitute", "spec only" or "only" does not appear with the trade name, offerors may submit prices on their trade-named item, providing they attach a descriptive label of their product to this solicitation. Sample merchandise offered hereunder as "offered equal" may be required to be submitted to the purchaser in advance of the solicitation award. Substitutions for items solicited, awarded and ordered are prohibited except as may be approved by the Chief Financial Officer.



**SECTION IV  
SUPPLEMENTARY CONDITIONS  
BY ARTICLES FOR  
THE CONSTRUCTION CONTRACT**

**(ARTICLE 1- Definitions are identified and incorporated in Section I, Definitions, Abbreviations, and Acronyms)**

**ARTICLE 2 – PRELIMINARY MATTERS**

**2.1 DELIVERY OF BONDS AND INSURANCE CERTIFICATES:**

2.1.1 After Board approval for award, the CONTRACTOR shall deliver to the VILLAGE such Bonds and Insurance Policies, Certificates or other documents as the CONTRACTOR may be required to furnish in accordance with the Contract Documents. The aforementioned documents must be submitted to the VILLAGE prior to any WORK being performed.

**2.2 COPIES OF DOCUMENTS:**

2.2.1 The VILLAGE shall furnish to CONTRACTOR ONE (1) copy (unless additional copies exist) of the Contract Documents for the execution of the WORK. CONTRACTOR shall be responsible for procuring additional copies.

**2.3 NOTICE TO PROCEED:**

2.3.1 The Contract Times shall commence to run on the date stated in the Notice to Proceed.

**2.4 STARTING THE WORK:**

2.4.1 CONTRACTOR shall begin to perform the WORK on the commencement date stated in the Notice to Proceed, but no WORK shall be done at the Site prior to said commencement date.

1.4.2 CONTRACTOR'S Review of Contract Documents: Before undertaking each part of the WORK, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to EOR any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from EOR before proceeding with any WORK affected thereby; however, CONTRACTOR shall not be liable to VILLAGE or EOR for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents, unless CONTRACTOR knew or reasonably should have known thereof.

2.4.3 INTERIOR INSPECTION FORM: Prior to beginning work, inspect with Owner's Representative or Architect, building interior(s). Log conditions of ceiling tiles, lights, walls and flooring materials using the Interior Inspection Form attached at the end of this Section. Confirmation of existing conditions shall be made and recorded onto a video disk.

Submit two copies of the form signed by the Contractor, Owner's Representative or Architect and one copy of video disk.

2.4.4 EXTERIOR INSPECTION FORM: Prior to beginning work, inspect with Owner's Representative or Architect, existing building exterior(s) and site conditions. Log, as required, conditions of exterior walls, building attachments, sidewalks, miscellaneous paving and landscaping using the Exterior Inspection Form attached at the end of this Section. Confirmation of existing conditions shall be recorded onto a video.

Submit two copies of form signed by the Contractor, Owner's

Representative or Architect and one copy of video disk.

**2.5. PRECONSTRUCTION CONFERENCE:**

2.5.1 The CONTRACTOR is required to attend a preconstruction conference within twenty (20) days after award. This conference shall be attended by the VILLAGE, CONSULTANT, and others as appropriate in order to discuss the WORK.

2.5.2 The CONTRACTOR'S initial schedule for shop drawings submittals, obtaining permits and Plan of Operation and CPM Schedule shall be reviewed and finalized. As a minimum, the CONTRACTOR'S representatives should include its project manager and schedule expert. If the submittals are not finalized at the end of the meeting, additional meetings shall be held so that the submittals can be finalized prior to the submittal of the first Application for Payment. No Application for Payment shall be processed prior to receiving acceptable initial submittals from the CONTRACTOR.

2.5.3 VILLAGE shall schedule preconstruction conference.

2.5.3.1 Attendance Required: VILLAGE's Project Manager, EOR, and Contractor/CM Project Manager and Superintendent.

2.5.3.2 Agenda:

Distribution of Contract Documents.

Confirmation of prior submission (during bid process) of list of Subcontractors, list of Products, Schedule of Values, and Progress Schedule.

2.5.3.3 Designation of personnel representing the parties in Contract, and the EOR.

2.5.3.4 Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders and Contract closeout procedures.

Scheduling.

2.5.3.5 Scheduling activities of a Geotechnical Engineer.

2.5.3.6 Issuance of Notice to Proceed.

2.5.3.7 Record minutes and distribute copies within two days after meeting to participants, with copies to EOR, VILLAGE, participants, and those affected by decisions made.

**2.6 SITE MOBILIZATION MEETING**

2.6.1 VILLAGE will schedule a meeting at the Project site prior to Contractor occupancy.

2.6.2 Attendance Required: VILLAGE, EOR, Special Consultants, and Contractor, Contractor's Superintendent, and major Subcontractors.

2.6.3 Agenda:

2.6.3.1 Use of premises by VILLAGE and Contractor.

2.6.3.2 VILLAGE's requirements and partial occupancy.

2.6.3.3 Construction facilities and controls provided by VILLAGE.

2.6.3.4 Temporary utilities provided by VILLAGE.

2.6.3.5 Survey and building layout.



- 2.6.3.6 Security and housekeeping procedures.
- 2.3.3.7 Schedules.
- 2.6.3.8 Application for payment procedures.
- 2.6.3.9 Procedures for testing.
- 2.6.3.10 Procedures for maintaining record documents.
- 2.6.3.11 Requirements for start-up of equipment.

2.6.3.12 Inspection and acceptance of equipment put into service during construction period.

2.6.3.13 Record minutes and distribute copies within two days after meeting to participants, with copies to CONSULTANT, VILLAGE, participants, and those affected by decisions made.

**2.7 PROGRESS MEETINGS**

2.7.1 Schedule and administer meetings throughout progress of the work at maximum monthly intervals.

Make arrangements for meetings, prepare agenda with copies for participants, and preside at meetings.

2.7.2 Attendance Required: Job superintendent, major Subcontractors and suppliers, VILLAGE, EOR, as appropriate to agenda topics for each meeting.

**2.7.3 Agenda:**

- 2.7.3.1 Review minutes of previous meetings.
- 2.7.3.2 Review of Work progress.
- 2.7.3.3 Field observations, problems, and decisions.
- 2.7.3.4 Identification of problems that impede planned progress.
- 2.7.3.5 Review of submittals schedule and status of submittals.
- 2.7.3.6 Review of off-site fabrication and delivery schedules.
- 2.7.3.7 Maintenance of progress schedule.
- 2.7.3.8 Corrective measures to regain projected schedules.
- 2.7.3.9 Planned progress during succeeding work period.
- 2.7.3.10 Coordination of projected progress.
- 2.7.3.11 Maintenance of quality and work standards.

2.7.3.12 Effect of proposed changes on progress schedule and coordination.

2.7.3.13 Other business relating to work.

2.7.3.14 Record minutes and distribute copies within two days after meeting to participants, with copies to EOR, VILLAGE, participants, and those affected by decisions made.

**2.8 PREINSTALLATION MEETING**

2.8.1 When required in individual specification section, convene a pre-installation meeting at the site prior to commencing work of the section.

2.8.2 Require attendance of parties directly affecting, or affected by, work of the specific section.

2.8.3 Notify VILLAGE and EOR five (5) working days in advance of meeting date.

2.8.4 Prepare agenda and preside at meeting:

2.8.5 Review conditions of installation, preparation and installation procedures.

2.8.6 Review coordination with related work.

2.8.7 Record minutes and distribute copies within two days after meeting to participants, with copies to EOR, VILLAGE, participants, and those affected by decisions made.

**2.9 FINALIZING SCHEDULES:**

2.9.1 Within ten (10) days of receiving the Notice to Proceed the CONTRACTOR shall submit the final schedule approved by the VILLAGE and EOR. The finalized progress schedule shall be acceptable to the VILLAGE as providing an orderly progression of the WORK to completion within the Contract Time, but such acceptance shall neither impose on the VILLAGE responsibility for the progress or scheduling of the WORK nor relieve CONTRACTOR from full responsibility thereof. The finalized schedule of Shop Drawing submissions shall be acceptable to the VILLAGE as providing a workable arrangement for processing the submissions. The finalized Schedule of Values shall be acceptable to the VILLAGE as to form and substance.

**2.10 SUBMITTAL PROCEDURES**

**2.10.1 SCOPE OF WORK**

Administrative and procedural requirements for processing of submittals during construction process. Submittals may include the following:

- Proposed Products Lists.
- Proposed Vendor List.
- Product Data.
- Shop Drawings.
- Samples.
- Design Data.
- Field Test Reporting.
- Quality Control Reporting.
- Certificates.
- Manufacturer's Installation, Handling and Storage Instructions.
- Manufacturer's Field Reports.
- Erection Drawings.
- Closeout Documents
- Warranties.
- Scheduling of Work
- Construction Progress Schedule.
- Submittals Schedule.
- Survey and Layout Data.
- Construction Progress Reporting.
- Periodic Work Observation.
- Photographic Documentation.
- Purchase Order Tracking.
- Operation and Maintenance Documentation

**2.10.2 RELATED SECTIONS**

- A. Payment Procedures.
- B. Project Coordination.
- C. References.
- D. Quality Control.
- E. Product Storage and Handling Requirements.
- F. Closeout Submittals.

2.10.2.1 SEE 2.10.2 RELATED SECTIONS AND SUBMITTAL SECTIONS 2.10.1 FOR INDIVIDUAL SUBMITTAL PROCEDURES.

**2.10.3 SUBMITTAL PROCEDURES-GENERAL**

2.10.3.1 Submittal Procedures shall be in conformance with Supplementary Conditions





General Conditions of the Contract and as amended by Village.

2.10.3.2 Transmit each submittal with Village's Standard Transmittal form.

2.10.3.3 Sequentially number each transmittal forms. Revise submittals with original number and a sequential alphabetic suffix.

2.10.3.4 Identify project, Contractor, subcontractor or supplier pertinent drawing and detail number, and specification section number, as appropriate.

2.10.3.5 Apply Contractor's stamp signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information are in accord with requirements of the work and contract documents.

2.10.3.6 Schedule submittals to expedite the project and deliver to Consultant and Village at business address. Coordinate submission of related items.

2.10.3.7 For each submittal for review, allow 10 days excluding delivery time to and from the Contractor.

2.10.3.8 Identify variations from contract documents and product or system limitations, which may be detrimental to successful performance of the completed work.

2.10.3.9 Provide space for Contractor and EOR review stamps.

2.10.3.10 when revised for resubmission, identify all changes made since previous submission.

2.10.3.11 Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report any inability to comply with requirements.

2.10.3.12 Submittals not requested will not be recognized or processed.

2.10.4 PRODUCT DATA

2.10.4.1 Product Data for Review:

2.10.4.1.1 Submit to EOR for review for purpose of checking for conformance with information given and design concept expressed in Contract Documents.

2.10.4.1.2 After review, provide copies and distribute per Submittal Procedures article above and for record documents purposes described in Section 01 78 00 – Closeout Submittals.

2.10.4.2 Product Data for Information:

2.10.4.2.1 Submittal for EOR'S knowledge as contract administrator or for Village.

2.10.4.3 Product Data for Project Close-out:

2.10.4.3.1 Submit for Village's benefit during and after project completion.

2.10.4.4 Submit number of copies, which Contractor/CM requires, plus two copies for Consultant.

2.10.4.5 Mark each copy to identify applicable products, models, options, and other data.

2.10.4.6 Supplement manufacturers' standard data to provide information unique to project.

2.10.4.7 Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.

2.10.4.8 After review, distribute in accord with Submittal Procedures article above and provide copies for record documents described in Section 6.37 Closeout Submittals.

2.10.5 CONSTRUCTION SUBMITTALS

2.10.5.1 Submit one copy of Building Permit, Site Permits, Environmental Permits, or other permits required for construction of work.

2.10.5.2 Submit Payment Applications to Consultant for review for purpose of checking conformance with information given and design concept expressed in Contract Documents.

2.10.5.3 Certificates:

2.10.5.3.1 When specified, submit certification by manufacturer, installation/application subcontractor, or contractor to Consultant, in quantities specified for Product Data.

2.10.5.3.2 Indicate material or Product conforms to or exceeds specified requirements.

2.10.5.3.3 Submit supporting reference date, affidavits, and certifications as appropriate.

2.10.5.3.4 Certificates may be recent or previous test results on material or Product but must be acceptable to Consultant.

2.10.5.4 Manufacturer's Instructions:

2.10.5.4.1 When specified, submit printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, to Consultant for delivery to Village in quantities specified for Product Data.

2.10.5.4.2 Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

2.10.5.4.3 Refer to Quality Control and Warranty sections for quality assurance requirements.

2.10.5.5 Manufacturer's Field Reports:

2.10.5.5.1 Submit reports to EOR and Village's Project Manager.

2.10.5.5.2 Submit report within 5 days of observation to EOR.

2.10.5.5.3 Submit for information for purpose of assessing conformance with information given and design concept expressed in Documents.

2.10.5.6 Erection Drawings:

2.10.5.6.1 Submit drawings to Consultant and Village's Project Manager.

2.10.5.6.2 Submit for information for purpose of assessing conformance with information given and design concept expressed in Documents.

2.10.5.6.3 Data indicating inappropriate or unacceptable work is subject to rejection by EOR or Village.



## ARTICLE 3 – USE OF CONTRACT DOCUMENTS

### 3.1 INTENT:

3.1.1 The Contract Documents comprise the entire agreement between the VILLAGE and CONTRACTOR concerning the WORK. The Contract Documents are complementary: what is called for by one is as binding as if called for by all. The Contract Documents shall be construed in accordance with the laws of the State of Florida with venue in Miami-Dade County, Florida.

3.1.2 It is the intent of the Contract Documents to describe the WORK, functionally complete, to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result shall be provided whether or not specifically called for.

### 3.2 REFERENCE TO STANDARDS:

3.2.1 Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties or responsibilities of the VILLAGE, CONTRACTOR or EOR or any of their agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to VILLAGE, EOR OR EOR'S agents or employees, any duty or authority to supervise or direct the furnishing or performance of the WORK or any duty or authority to undertake responsibility contrary to the provisions of the Contract Documents.

### 3.3. REVIEW OF CONTRACT DOCUMENTS

3.3.1 The Contract Documents which comprise the Contract between the VILLAGE and the Contractor are attached hereto and made part hereof and consist of the following:

- 3.3.1.1 The Purchase Order.
- 3.3.1.2 Contractor's Bid and Bid Bonds
- 3.3.1.3 Bid Documents, consisting of:
- 3.3.1.4 Invitation to Bid and Instructions to Bidders.
- 3.3.1.5 General Terms & Conditions.
- 3.3.1.6 Supplementary Conditions
- 3.3.1.7 Special Conditions.
- 3.3.1.8 Technical Provisions.
- 3.3.1.9 All Plans.
- 3.3.1.10 All Addenda.

3.3.1.11 Recorded Public Construction Performance and Payment Bond in a form supplied by the VILLAGE, which shall be provided to the VILLAGE by the Contractor, along with the return of an executed Purchase Order. The Contractor shall be responsible for recording the Public Construction Bond.

3.3.1.12 Insurance Certificates which shall be provided by the Contractor, along with the return of an executed copy of this Contract.

3.3.1.13 Any Modifications, including change orders, duly delivered after execution of this Contract.

3.3.1.14 Executed Notice of Intent to Award.

3.3.1.15 Executed Notice to Proceed

3.3.2 Except for duly authorized and executed Modifications including but not limited to change orders and contract amendments, any conflict between the terms and conditions of this Contract and the terms and conditions of any of the other contract documents shall be interpreted in favor of this Contract.

3.3.3 If, during the performance of the WORK, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so notify the CONSULTANT, in writing, at once and before proceeding with the WORK affected thereby shall obtain a written interpretation or clarification, except in an emergency as authorized by paragraph 6.13.

### 3.4 ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS

3.4.1 In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the order of precedence shall be as follows:

1. Amendment
2. Change Order
3. Construction Contract or Purchase Order
4. Addenda, with later date having greater priority
5. Bid Form
6. Special Conditions
7. Supplementary Conditions
8. Invitation to Bid
9. Instructions to Bidders
10. General Terms & Conditions
11. Technical Specifications
12. Contract Drawings

The captions or subtitles of the several articles and divisions of these Contract Documents constitute no part of the context and hereof but are only labels to assist in locating and reading the provisions hereof.

3.4.2 With reference to the Drawings, the order of precedence is as follows:

1. Figures govern over scaled dimensions
2. Detail drawings govern over general drawings
3. Addenda/Change Order drawings govern over any other drawings
4. Drawings govern over standard drawings

3.4.3. Except as otherwise specifically stated in the Contract Documents or as may be provided by amendment or supplement thereto issued by one of the methods indicated in paragraph 3.5, (Amending of Contract Documents) the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Contract Documents and:

1. The provisions of any such standard, specification, manual, code or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

2. The provisions of any such 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).

No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of VILLAGE, CONTRACTOR or CONSULTANT, or any of their subcontractors, agents or employees from those



set forth in the Contract Documents, no shall it be effective to assign to VILLAGE, EOR'S or any of EOR's agents or employees any duty or authority to supervise or direct the furnishing or performance of the WORK or any duty or authority to undertake responsibility inconsistent with the provisions of paragraph 9.10, (Limitations on EOR) or any other provision of the Contract Documents.

### 3.5 AMENDING CONTRACT DOCUMENTS:

3.5.1 The Contract Documents may be amended to provide for additions, deletions and revisions in the WORK or to modify the terms and conditions thereof by a Change Order (pursuant to Article 10, Changes in the Work).

3.5.2 Additionally, the requirements of the Contract Documents may be supplemented and minor variations and deviations in the WORK may be authorized, in one or more of the following ways:

3.5.2.1 A Field Order (pursuant to paragraph 9.5, Changes in the Work)

3.5.2.2 EOR'S approval of a Shop Drawing or sample (pursuant to paragraphs 6.11, Shop Drawings and Samples), or

3.5.2.3 EOR'S written interpretation or clarification (pursuant to paragraph 9.4 Clarifications and Interpretations).

### 3.6 REUSE OF DOCUMENTS:

3.6.1 Neither CONTRACTOR nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the WORK under a direct or indirect contract with the VILLAGE shall have or acquire any title to or ownership rights in any of the Contract Documents, drawings, technical specifications or other documents used on the WORK; and, they shall not reuse any of them on extensions of the Project or any other project without prior written consent of the VILLAGE and EOR.

## **ARTICLE 4 – SITE OF THE WORK**

### 4.1 AVAILABILITY OF LANDS:

4.1.1 The VILLAGE shall furnish, as indicated in the Contract Documents, the lands upon which the WORK is to be performed, rights-of-way and easements for access thereto and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities shall be obtained and paid for by the VILLAGE, unless otherwise provided in the Contract Documents. Nothing contained in the Contract Documents shall be interpreted as giving the CONTRACTOR exclusive occupancy of the lands or rights-of-way provided. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.1.2 Occupying Private Land: The Contractor shall not enter upon nor use any property not under the control of the VILLAGE until a written temporary construction easement agreement has been executed by the CONTRACTOR and the property owner, and a copy of said easement furnished to the VILLAGE and EOR prior to said use; and, neither the VILLAGE nor the EOR shall be liable for any claims or damages resulting from the CONTRACTOR'S trespass on or use of any such properties. The CONTRACTOR shall provide the VILLAGE with a signed release from the property owner confirming that the lands have been satisfactorily restored upon completion of the WORK.

4.1.3 WORK in State, County and VILLAGE Rights-of-Way and Easements: When the WORK involves the installation of sanitary sewers, storm sewers, drains, water mains, manholes, underground structures, or other disturbances of existing features in or across streets, rights-of-way, easements, or other property, the CONTRACTOR shall (as the WORK progresses) promptly back-fill, compact, grade and

otherwise restore the disturbed area to a basic condition which shall permit resumption of pedestrian or vehicular traffic and any other critical activity or function consistent with the original use of the land. Unightly mounds of earth, large stones, boulders, and debris shall be removed so that the site presents a neat appearance as part of the contract.

4.1.4 WORK Adjacent to Telephone, Power, Cable TV and Gas Company Structures: In all cases where WORK is to be performed near telephone, power, water, sewer, drainage, cable TV, or gas company facilities, the Contractor shall provide written notification to the respective companies of the areas of which WORK is to be performed, prior to the actual performance of any WORK in these areas.

4.1.5 Use of Public Streets: The use of public streets and alleys shall be such as to provide a minimum of inconvenience to the public and to other vehicular and non-vehicular traffic. The CONTRACTOR shall remove any earth or excavated materials spilled from trucks and clean the streets to the satisfaction of the VILLAGE, the EOR, the Florida Department of Transportation, or other agency or governmental entity having jurisdiction, as applicable.

### 4.2 REPORTS OF PHYSICAL CONDITIONS:

4.2.1 Subsurface Explorations: Where applicable, reference is made in the technical specifications for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by EOR in preparation of the Contract Documents.

4.2.2 Existing Structures: Where applicable, reference is made to the technical specifications, for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 4.3 herein) which are at or contiguous to the site that have been utilized by EOR in preparation of the Contract Documents.

4.2.3 Neither the VILLAGE nor EOR makes any representation as to the completeness of the reports or drawings referred to in Paragraph 4.2.1. Subsurface Explorations or 4.2.2. Existing Structures above or the accuracy of any data or information contained therein. CONTRACTOR may rely upon the general accuracy of the technical data contained in such reports and drawings but not for the completeness thereof 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. However, the CONTRACTOR may not rely upon any interpretation of such technical data, including any interpolation or extrapolation thereof, or any non-technical data, interpretations, and opinions contained therein.

4.2.4 Where the dimensions and locations of existing structures are of critical importance in the installation or connection of new WORK, the CONTRACTOR shall verify such dimensions and locations in the field before the fabrication of any materials or equipment which is dependent on the correctness of such information. There shall be no additional cost to the VILLAGE for CONTRACTOR'S failure to verify such dimensions and locations, or for inaccurate verifications by CONTRACTOR.

### 4.3 PHYSICAL CONDITIONS -- UNDERGROUND FACILITIES:

4.3.1 Indicated: The information and data indicated in the Contract Documents with respect to existing Underground Utilities at or contiguous to the site is based on information and data furnished to the VILLAGE or EOR by the owners of such Underground Utilities or by others.

4.3.1.1 The VILLAGE and EOR shall not be responsible for the accuracy or completeness of any such information or data; and,

4.3.1.2 The CONTRACTOR shall notify the Underground Service Alert (USA) System, Phone No. 1-800-227-2600, and Sunshine State One Call Services (1-800-432-4770) at least 48 hours in advance of the commencement of WORK at any site to allow the member utilities





to examine the construction site and mark the location of the utilities' respective facilities.

4.3.1.3 The CONTRACTOR acknowledges that some (or all) of the utility companies with facilities shown on the drawings may not be members of the USA System or Sunshine State One Call Services; and, therefore, not automatically contacted by the above referenced telephone number. The CONTRACTOR shall be responsible for making itself aware of utility company facilities not reported by the USA System or Sunshine State One Call Services and shall be liable for any and all damages stemming from repair or delay costs or any other expenses resulting from the unanticipated discovery of underground utilities. The CONTRACTOR shall be responsible for notifying all of the utilities at least 48 hours in advance of the commencement of WORK at any site to allow the utilities to examine the construction site and mark the location of the utilities' respective facilities. The CONTRACTOR shall also be responsible for verifying that each utility has responsibly responded to such notification.

4.3.1.4 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data. Further, the CONTRACTOR shall be responsible for locating all Underground Facilities whether or not shown or indicated in the Contract Documents, for coordination of the WORK with the owners of such Underground Facilities during construction, for the safety and protection thereof as provided in paragraph 6.10, and repairing any damage thereto resulting from the WORK, the cost of all of which shall be considered as having been included in the Contract Price.

4.3.1.5 All water pipes, sanitary sewers, storm drains, force mains, gas mains, or other pipe, telephone or power cables or conduits, pipe or conduit casings, curbs, sidewalks, service lines and all other obstructions, whether or not shown, shall be temporarily removed from or supported across utility line excavations. Where it is necessary to temporarily interrupt services, the CONTRACTOR shall notify the VILLAGE or occupant of such facilities both 48 hours before the interruption and again immediately before service is resumed. Before disconnecting any pipes or cables, the CONTRACTOR shall obtain permission from the VILLAGE or occupant or shall make suitable arrangements for their disconnection by the VILLAGE or occupant. The CONTRACTOR shall be responsible for any damage to any such pipes, conduits or cables, and shall restore them to service promptly, as part of the work, as soon as the WORK has progressed past the point involved. Approximate locations of known water, sanitary, drainage, natural gas, power, telephone and cable TV installations along the route of new pipelines or in the vicinity of new WORK are shown but are to be verified in the field by the Contractor prior to performing the WORK. The CONTRACTOR shall uncover these pipes, ducts, cables, etc., carefully, by hand prior to installing his WORK. Any discrepancies or differences found shall be immediately brought to the attention of the EOR in order that necessary changes may be made to permit installation of the WORK.

4.3.2 Not Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown, nor located by the facilities VILLAGE and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any WORK affected thereby (except in an emergency as permitted by paragraph 6.10), identify to the VILLAGE of such Underground Facility and give written notice thereof to that owner and to the VILLAGE and the CONSULTANT. The CONSULTANT shall promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents shall be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.13.

#### 4.4 DIFFERING SITE CONDITIONS

4.4.1 The CONTRACTOR shall notify the EOR in writing, of the following unforeseen conditions, hereinafter called differing Site conditions, promptly upon their discovery (but in no event later than 14 days after their discovery) and before they are disturbed:

4.4.1.1 Subsurface or latent physical conditions at the Site of the WORK differing materially from those indicated, described, or delineated in the Contract Documents, including those reports discussed in Paragraph 4.2 and 4.3; (Physical Conditions, Underground facilities) and

4.4.3.2 Any unknown physical conditions and the Site of the WORK of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents, including those reports and documents discussed in Paragraph 4.2 and 4.3.

4.4.2 EOR shall promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise the VILLAGE in writing (with a copy to the CONTRACTOR) of EOR'S findings and conclusions.

4.4.3 If EOR concludes that because of newly discovered conditions a change in the Contract Documents is required, a Change Order shall be issued as provided in Article 10 (Changes in the Work) to reflect and document the consequences of the difference.

4.4.4 In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, shall be allowable to the extent that they are attributable to any such inaccuracy or difference. If the VILLAGE and CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Article 11, Change of Contract Price, and Article 12, Change of Contract Time.

4.4.5 The CONTRACTOR'S failure to give notice of differing Site conditions within seven (7) days of their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith, whether direct or consequential in nature.

#### 4.5 REFERENCE POINTS:

4.5.1 The VILLAGE shall provide, if available, engineering surveys to establish reference points for construction, which in EOR'S judgment are necessary to enable CONTRACTOR to proceed with the WORK.

4.5.2 CONTRACTOR shall be responsible for laying out the WORK (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the VILLAGE. The CONTRACTOR shall report to the EOR whenever any reference point 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 by professionally qualified personnel.



Contract Amount	Best Key Rating
Under \$500,000	Class IX A or better
\$500,000 to \$2,499,999.99	Class XI A or better
Over \$2,500,000	Class XIV A or better

number of counterparts of the bond corresponding to the number of counterparts in the Contract. Each executed bond shall be accompanied by (a) appropriate acknowledgment of the respective parties; (b) appropriate duly certified copy of Power-of-Attorney or other certification of authority where bond is executed by agent, officer or other representative of Contractor or Surety; (c) duly certified extract from by-laws or resolutions of Surety under which Power-of-Attorney, or other certificate of Authority of its agent, officer or representative was issued.

5.1.8 If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the state of Florida or it ceases to meet the requirements of paragraph 5.1.3 and 5.1.4, CONTRACTOR shall within five days thereafter substitute another Bond and Surety, both of which must be in conformance with paragraph 5.1.3 and 5.1.4. **Under no circumstances shall the successful CONTRACTOR begin WORK until he/she has supplied to the VILLAGE Performance and Payment Bonds and Affidavit for Bond using the VILLAGE form, and the VILLAGE has approved the bond. Contractor shall execute and record all bonds in the public records of the county where the improvement is located prior to delivering the bonds to the owner. Non-registered bonds shall be rejected.**

**ARTICLE 5 – BONDS AND INSURANCE**

5.1 BONDS:

5.1.1 CONTRACTOR shall upon receipt of the notice of award furnish Performance and Payment Bonds, each in an amount at least ONE HUNDRED PERCENT (100%) of the Contract Price as security for the faithful performance and payment of all CONTRACTOR'S obligations under the Contract Documents. Said bonds must be provided to the VILLAGE within ten (10) business days of the Notice of Award or delivery of a Purchase Order. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. Each Bond shall be furnished in an amount equal to ONE HUNDRED PERCENT 100% of the amount of the Contract award and recorded in the public records of the county where the improvement is located. The form and conditions of the Bonds and the Surety shall be as specified in the solicitation.

5.1.2 If requested by the Village, the CONTRACTOR shall provide a Maintenance and Guaranty Bond in the amount of 50% of the Performance and Payment Bonds to provide a guarantee against defects in the WORK occurring during the year following the one-year correction period. The Bond shall be payable to the VILLAGE and be at the sole cost of the CONTRACTOR. The form and conditions of the Bonds and the Surety shall be as specified and supplied by the VILLAGE in the Bid Documents.

5.1.3 The Surety shall be a nationally recognized Surety Company acceptable to the VILLAGE, listed on the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department, and meet the other requirements of Florida Statutes Section 287.0935 (1989).

**For projects exceeding five hundred thousand dollars, all bonds shall be placed with sureties with Best Ratings as stated below.** The name, address and telephone number of the surety and its agent must be listed on the bond.

5.1.4 For contracts up to \$499,999.99 the surety shall have twice the minimum surplus and capital required by the Florida Insurance Code at the time the bid is issued for the Work, otherwise the surety shall have the following minimum ratings:

5.1.5 The Bond shall specifically incorporate and acknowledge the Surety's responsibility for liquidated damages.

5.1.6 Bonds shall be executed and issued by a resident agent, licensed and having an office in Palm Beach, Miami-Dade, Broward, and Monroe, representing such corporate sureties.

5.1.7 If the CONTRACTOR is a partnership, the Bond shall be signed by each of the individuals who are partners; if a corporation, the Bond shall be signed in the correct corporate name by duly authorized officer, agent or attorney-in-fact. There shall be executed an appropriate

5.2 INSURANCE:

5.2.1 The CONTRACTOR agrees to, in the performance of work and services under this Agreement, comply with all Federal, state, and local laws and regulations now in effect, or hereinafter enacted during the term of this agreement that are applicable to the CONTRACTOR, its employees, agents, or subcontractors, if any, with respect to the work and services described herein. The CONTRACTOR shall obtain at CONTRACTOR'S expense all necessary insurance in such form and amount as required by the Village's Risk & Safety Officer before beginning work under this Agreement. The CONTRACTOR shall maintain such insurance in full force and effect during the life of this Agreement. The CONTRACTOR shall provide to the Village's Risk & Safety Officer certificates of all insurance required under this section prior to beginning any work under this Agreement. The CONTRACTOR shall indemnify and save the Village harmless from any damage resulting to it for failure of either CONTRACTOR or any subcontractor to obtain or maintain such insurance. The following are required types and minimum limits of insurance coverage, which the CONTRACTOR agrees to maintain during the term of this contract:

<b>Professional Liability</b>	<b>\$1,000,000</b>	<b>\$2,000,000</b>
<b>Line of Business/ Coverage</b>	<b>Occurrence</b>	<b>Aggregate</b>
<b>Commercial General Liability</b>	<b>\$1,000,000</b>	<b>\$2,000,000</b>
<b>Including:</b>		
<b>Premises/</b>		
<b>Operations</b>		
<b>Contractual Liability</b>		
<b>Personal Injury</b>		
<b>Explosion, Collapse, Underground Hazard</b>		
<b>Products/Completed Operations</b>		
<b>Broad Form Property Damage</b>		
<b>Cross Liability and Severability of Interest Clause</b>		
<b>Automobile Liability</b>	<b>\$1,000,000</b>	<b>\$2,000,000</b>
<b>(Including owned, non-owned and hired)</b>		



**Workers' Compensation & Statutory limits  
Employer's Liability**  
**\$500,000 per each disease;  
\$500,000 per each accident;  
and \$500,000 each employee.**

5.2.2 The Village reserves the right to require higher limits depending upon the scope of work under this Agreement.

5.2.3 Neither the CONTRACTOR nor any subcontractor shall commence work under this contract until they have obtained all insurance required under this section and have supplied the Village with evidence of such coverage in the form of an insurance certificate and endorsement. The CONTRACTOR shall ensure that all subcontractors shall comply with the above guidelines and shall maintain the necessary coverage throughout the term of this Agreement.

5.2.4 All insurance carriers shall be rated at least A-VII per A.M. Best's Key Rating Guide and be licensed to do business in Florida. Policies shall be "Occurrence" form. Each carrier shall give the Village sixty (60) days' notice prior to cancellation.

5.2.5 The CONTRACTOR's general and automobile liability insurance policies shall be endorsed to add the Village, its board, employees, officers and agents as an "additional insured". The CONTRACTOR's Worker's Compensation carrier shall provide a Waiver of Subrogation to the Village. The CONTRACTOR shall be responsible for the payment of all deductibles and self-insured retentions.

5.2.6 The Village may require that the CONTRACTOR purchase a contract or performance bond equal to the cost of the project. If the CONTRACTOR is to provide professional services under this Agreement, the CONTRACTOR must provide the Village with evidence of Professional Liability insurance with, at a minimum, a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. "Claims-Made" forms are acceptable for Professional Liability insurance.

5.2.7 The Village may require higher limits for Professional Liability depending on the size of the project. In any event, the Bidder shall maintain such Professional Liability insurance in effect three (3) years after the completion of the project.

5.2.8 Should the Village require the Bidder to carry Builders Risk insurance for the project, it must be in the amount equal to the full replacement cost of the project.

5.2.9 Fulfillment by the Bidder of the insurance provisions does **not** limit the Bidder's liability to the amount of the policy limits.

**ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES**

**6.1 CONTRACTOR STATUS:**

6.1.1 The Contractor is an independent contractor and is not an employee or agent of the VILLAGE. Nothing in this Contract shall be interpreted to establish any relationship other than that of an independent contractor, between the VILLAGE and the Contractor, its employees, agents, subcontractors, or assigns, during or after the performance of this Contract. The Contractor shall take the whole responsibility for the means, methods, techniques, sequences, and production of the Work.

**6.2 CONTRACTOR RISK:**

6.2.1 The Contractor shall bear all losses resulting to him, or its, on account of the amount or character of the Work, or because of the nature of the ground beneath, in or on which the Work is done is different from what was assumed or expected, or because of bad weather, or because of errors or omissions in his or its bid on the Contract price, or except as otherwise provided in the Contract Documents because of any other

causes whatsoever. Execution of this Contract by the Contractor is a representation that the Contractor has visited the site, has conducted a sufficient investigation of the surface and sub-surface conditions in order to submit its bid, has become familiar with the local conditions under which the Work is to be performed, and correlated personal observations with the requirements of the Contract Documents.

6.2.2 The Contractor shall protect the entire Work, all materials under the Contract and the VILLAGE's property (including machinery and equipment) in, on, or adjacent to the site of the Work until final completion and Work, from the action of the elements, acts of other contractors, or except as otherwise provided in the Contract Documents, and from any other causes whatsoever; should any damage occur by reason of any of the foregoing, the Contractor shall repair at his, or its, own expenses to the satisfaction of the VILLAGE or its Project Manager. Neither the VILLAGE nor its officers, employees or agents assume any responsibility for collection of indemnities or damages from any person or persons causing injury to the Work of the Contractor.

6.2.3 At his, or its expense, the Contractor shall take all necessary precautions (including without limitation) the furnishing of guards, fences, warnings signs, walks, flags, cables and lights for the safety of and the prevention of injury, loss and damage to persons and property (including without limitation) in the term persons, members of the public, the VILLAGE and its employees and agents, the Project Manager and his employees, Contractor's employees, his or its subcontractors and their respective employees, other contractors, their subcontractors and respective employees, on, about or adjacent to the premises where said Work is being performed, and shall comply with all applicable provisions of safety laws, rules, ordinances, regulations and orders of duly constituted public authorities and building codes.

6.2.4 The Contractor assumes all risk of loss, damage and destruction to all of his or its materials, tools appliances and property of every description and that of his or its subcontractors and of their respective employees or agents, and injury to or death of the Contractor, his or its employees, subcontractors or their respective employees or agents, including legal fees, court costs or other legal expenses, arising out of or in connection with the performance of this Contract.

**6.3 SUPERVISION AND SUPERINTENDENCE:**

6.3.1 The CONTRACTOR shall supervise and direct the Work. He shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The CONTRACTOR shall employ and maintain on the Work a qualified supervisor or superintendent who shall have been designated in writing by the CONTRACTOR as the CONTRACTOR'S representative at the site. The supervisor shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor shall be as binding as if given to the CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the Work. (Copies of written communications given to the Superintendent shall be mailed to the Contractor's home office.)

**6.4 LABOR, MATERIALS AND EQUIPMENT: CONDITIONS, SUBSTITUTIONS**

Related Article: 6.40; Product Substitution Requirements and Procedures

6.4.1 The CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. He shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR shall not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday, observed by the VILLAGE, without the VILLAGE'S PROJECT MANAGER's written





consent.

6.4.2 Materials and Equipment: The CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work. All material stored on the job site shall remain the responsibility of the CONTRACTOR until incorporated into the work. The VILLAGE shall not reimburse the CONTRACTOR for materials lost, stolen, or damaged while stored on the job site.

6.4.3 Condition of Materials: All materials and products supplied by the Bidder in conjunction with this bid shall be new, warranted for their merchantability, fit for a particular purpose, free from defects and consistent with industry standards. The products shall be delivered to the Village in excellent condition. When special makes or grades of material which are normally packaged by the supplier or manufacturer are specified or approved, such materials shall be delivered to the site in their original packages or container with seals unbroken and labels intact. In the event that any of the products supplied to the Village are found to be defective or do not conform to the specifications, the Village reserves the right to return the product to the Bidder at no cost to the Village.

6.4.4 Installation / Assembly: All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract Documents.

6.4.5 Materials, Equipment, Products, and Substitutions: Materials, equipment and products incorporated in the Work must be approved for use before being purchased by the CONTRACTOR. The CONTRACTOR shall submit to the EOR and the VILLAGE'S PROJECT MANAGER a list of proposed materials, equipment or products, together with such samples as may be necessary for him to determine their acceptability and obtain his approval, per Section III General Terms and Conditions if prior to award, or after award, within ten (10) calendar days after the CONTRACTOR should have been aware of the need for substitution, unless otherwise stipulated in the Special Conditions. No request for payment for "or equal" equipment shall be approved until this list has been received and approved by the EOR. The Village may require the CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute.

6.4.6 Should any work or materials, equipment or products not conform to requirements of the Drawings and Specifications or become damaged during the progress of the Work, such Work or materials shall be removed and replaced, together with any work disarranged by such alterations, at any time before completion and acceptance of the Project. All such work shall be done at the expense of the CONTRACTOR.

6.4.7 No materials or supplies for the Work shall be purchased by the CONTRACTOR or by any Subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the Seller. The CONTRACTOR warrants that he has good title to all materials and supplies used by him in the Work.

6.4.8 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction if acceptable to the VILLAGE and EOR, if CONTRACTOR submits sufficient information to allow VILLAGE and EOR to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by VILLAGE and EOR shall be similar to that provided in paragraph 6.4.5 (Materials, Equipment, Products and Substitutions) as applied by EOR and as may be supplemented in the Technical Specifications.

6.4.9 Any two (2) or more pieces of material or equipment of the same kind, type or classification, and being used for identical types of service, shall be made by the same manufacturer.

6.4.10 The successful CONTRACTOR shall furnish all guarantees and warranties to the Purchasing Department prior to final acceptance and payment. The warranty period shall commence upon final acceptance of the product.

## 6.5 CONCERNING SUBCONTRACTORS:

6.5.1 The CONTRACTOR shall not employ any Subcontractor, other person or organization (whether initially or as a substitute) against whom the VILLAGE or the EOR may have reasonable objection, nor shall the CONTRACTOR be required to employ any Subcontractor against whom he has reasonable objection. The CONTRACTOR shall not make any substitution for any Subcontractor who has been accepted by the VILLAGE'S PROJECT MANAGER and the EOR, unless the EOR determines that there is good cause for doing so. If after bid opening and prior to the award of the contract, the VILLAGE objects to certain suppliers or subcontractors, the VILLAGE may permit CONTRACTOR to submit an acceptable substitute so long as there is no change in the contract price or contract time. If the contract price or contract time is increased, the VILLAGE may return the bid bond and award the contract to the next qualified, competent BIDDER. If after the award of the contract, the VILLAGE objects to certain suppliers or subcontractors, the VILLAGE shall permit CONTRACTOR to make an appropriate and acceptable substitution which is also acceptable to the VILLAGE. No acceptance by the VILLAGE or the EOR of any such Subcontractor, supplier or other person or organization shall constitute a waiver of any right of the VILLAGE or EOR to reject *defective* WORK.

6.5.2 Responsibility: The CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between VILLAGE or EOR and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of VILLAGE or EOR to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. VILLAGE or EOR may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific Work done in accordance with the schedule of values.

6.5.3 Division of Work: The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

6.5.4 Terms and Conditions: The CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the VILLAGE.

6.5.5 Agreement: All Work performed for the CONTRACTOR by a Subcontractor shall be pursuant to any appropriate agreement between the CONTRACTOR and the Subcontractor.

6.5.6 Responsibility: The CONTRACTOR shall be responsible for the coordination of the trades, Subcontractors and material men engaged upon His Work.

6.5.7 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the CONTRACTOR by the terms of these General Conditions and other Contract Documents insofar as applicable to the Work of Subcontractors, and to give the CONTRACTOR the same power as regards terminating any subcontract that the VILLAGE may exercise over the CONTRACTOR under any provisions of the Contract



## Documents.

6.5.8 The VILLAGE or EOR shall not undertake to settle any differences between the CONTRACTOR and his Subcontractors or between Subcontractors.

6.5.9 If in the opinion of the VILLAGE'S PROJECT MANAGER or EOR, any Subcontractor on the Project proves to be incompetent or otherwise unsatisfactory, he shall be replaced if and when directed in writing.

## 6.5.10 CONTRACTOR shall also:

6.5.10.1 Observe work of each subcontractor to monitor compliance with schedule.

6.5.10.2 Verify that labor and equipment are adequate for the work and the schedule.

6.5.10.3 Verify that product procurement schedules are adequate.

6.5.10.4 Verify that product deliveries are adequate to maintain schedule.

6.5.10.5 Report noncompliance to EOR, with recommendation for changes

## 6.6 PATENT, FEES AND ROYALTIES:

6.6.1 The CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others. He shall indemnify and hold harmless the VILLAGE and EOR and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of such rights during or after completion of the Work and shall defend all such claims in connection with any alleged infringement of such rights.

6.6.2 Patent Rights: The CONTRACTOR shall be responsible for determining the application of patent rights and royalties on materials, appliances, articles or systems prior to bidding. However, he shall not be responsible for such determination on systems which do not involve purchase by him of materials, appliances and articles.

## 6.7 PERMITS, LAWS AND REGULATIONS:

6.7.1 Permits: The CONTRACTOR shall secure and pay for all construction permits and licenses and shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of his Bid. The VILLAGE shall assist the CONTRACTOR, when necessary, in obtaining such permits and licenses. The VILLAGE shall be invoiced at actual cost without markup.

6.7.2 The CONTRACTOR shall also pay all public utility charges. The Contractor shall be responsible for obtaining dewatering permits as required. CONTRACTOR shall be responsible for complying with the South Florida Water Management Village, Florida Department of Environmental Regulation, United States Environmental Protection Agency and any other regulatory agency requirements including financial responsibility (fines, etc.).

6.7.2 Laws and Regulations: The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Drawings are at variance therewith, he shall give the EOR prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the EOR, he shall bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

## 6.8 TAXES:

6.8.1 Cost of all sales and other taxes for which the CONTRACTOR is liable under the Contract shall be included in the Contract Price stated by the CONTRACTOR.

## 6.9 RECORD DOCUMENTS/RIGHT TO AUDIT:

6.9.1 The CONTRACTOR shall keep in a safe place one record copy of all Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the EOR and shall be delivered to him for the VILLAGE upon completion of the project. It shall be used for this purpose only. Final acceptance of the project shall be withheld until approval of the documents is made by the VILLAGE'S PROJECT MANAGER.

6.9.2 The awarded CONTRACTOR shall maintain during the term of the contract all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the Village's Auditor. The awarded CONTRACTOR agrees to make available to the Village's Auditor, during normal business hours all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of three (3) years beyond the last day of the contract term.

6.9.3 If the CONTRACTOR submits a claim to the VILLAGE for additional compensation, the VILLAGE shall have the right, as a condition to considering the claim, and as a basis for evaluation of the claim, and until the claim has been settled, to audit the CONTRACTOR'S books to the extent they are relevant. This right shall include the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to discover and verify all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred and for which claim has been submitted. The right to audit shall include the right to inspect the CONTRACTOR'S plants, or such parts thereof, as may be or have been engaged in the performance of the WORK. The CONTRACTOR further agrees that the right to audit encompasses all subcontracts and is binding upon all subcontractors. The rights to examine and inspect herein provided for shall be exercisable through such representatives as the VILLAGE deems desirable during the CONTRACTOR'S normal business hours at the office of the CONTRACTOR. The accounting records and documents, and other financial data, and upon request, shall submit true copies of requested records to the VILLAGE.

## 6.10 SAFETY, PROTECTION, STORAGE AND EMERGENCIES:

## Related Articles:

6.2-Contractor Risk and Work Protection

6.21-Protection of Existing Property Improvements

6.38-Temporary barriers and Enclosures

6.39-Security

6.10.1 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

6.10.1.1 All employees on the Work and other persons who may be affected thereby,

6.10.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and

6.10.1.3 Store and protect Products in accordance with manufacturers' instructions, with seals and labels intact and legible.



6.10.1.4 Store sensitive Products in weather tight, climate-controlled enclosures.

6.10.1.5 For exterior storage of fabricated Products, place on sloped supports, above ground.

6.10.1.6 Cover Products subject to deterioration with impervious sheet covering. Provide ventilation to avoid condensation or potential degradation of Product.

6.10.1.7 Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.

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

6.10.2. CONTRACTOR shall comply with all applicable laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss on or off the WORK and shall erect and maintain all necessary safeguards for such safety and protection.

6.10.3 CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the WORK may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.

6.10.4 All damage, injury or loss to any property referred to in paragraph 6.10.1.2. or 6.10.1.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the WORK for anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of the VILLAGE or the EOR or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR).

6.10.5 CONTRACTOR'S duties and responsibilities for the safety and protection of the WORK shall continue until such time as all the WORK is completed and EOR has issued a notice to the VILLAGE and CONTRACTOR in accordance with paragraph 14.6.(Substantial Completion) that the WORK is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.10.6 The safety provisions of applicable laws and building and construction codes shall be observed, and the Contractor shall take or cause to be taken such additional safety and health measures as the Local Public Agency involved may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction" as published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable laws.

6.10.7 The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from WORK, arising out of an accident in the course of employment on WORK under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

6.10.8 SAFETY REPRESENTATIVE: CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR'S superintendent unless otherwise designated in writing by CONTRACTOR to the VILLAGE.

6.10.9 HAZARD COMMUNICATION PROGRAMS: CONTRACTOR shall be responsible for coordinating any exchange of

material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employees at the Site in accordance with Laws and Regulations.

6.10.10 SUPERINTENDENT: The CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR'S superintendent unless otherwise designated in writing by the CONTRACTOR to the VILLAGE'S PROJECT MANAGER.

6.10.11 EMERGENCIES: In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the EOR or the VILLAGE'S PROJECT MANAGER, is obligated to act, at his discretion, to prevent threatened damage, injury or loss.

6.10.11.1 CONTRACTOR shall give VILLAGE PROJECT Representative and EOR prompt written notice if CONTRACTOR believes that any significant changes in the WORK or variations from the Contract Documents have been caused thereby. If EOR determines that a change in the Contract Documents is required because of the action taken in response to an emergency or Change Order shall be issued to document the consequences of the changes or variations.

6.10.11.2 During adverse weather, and against the possibility thereof, the CONTRACTOR shall take all necessary precautions to ensure that the WORK shall be done in a good and workmanlike condition and is satisfactory in all respects. When required, protection shall be provided by the use of tarpaulins, wood and building paper shelters, or other acceptable means. The CONTRACTOR shall be responsible for all changes caused by adverse weather, including unusually high winds and water levels and he shall take such precautions and procure such additional insurance as he deems prudent. The EOR may suspend construction operations at any time when, in his judgment, the conditions are unsuitable or the proper precautions are not being taken, whatever the weather or water level conditions may be, in any season.

6.10.11.3 If the CONTRACTOR believes that additional work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefore as provided in Articles 11 (Change in Contract Price) and 12, (Change in Contract Time).

6.10.12. NATIONAL EMERGENCY: In the event the VILLAGE is prevented from proceeding with any or all of this WORK as stated in this Contract, due to a declaration of war, or national emergency by the United States government, whereas the construction of the type contracted for herein is specifically prohibited by statute or governmental edict, or due to the stoppage of construction caused by any governmental agency, State, VILLAGE, Town, or County regulations, orders, restrictions, or due to circumstances beyond the VILLAGE'S control, then the VILLAGE herein reserves the right to either suspend the WORK to be done for an indefinite period of time or to cancel this Contract outright by giving notice by registered mail of such intention to the CONTRACTOR herein. In the event of any conditions above mentioned occurring after the WORK herein has already been commenced, then the VILLAGE herein shall be liable for only the cancellation or suspension without the addition of prospective profits or other changes whatsoever.

#### 6.11 SHOP DRAWINGS AND SAMPLES:

Related Article 6.41: Field Samples and Mockups

6.11.1 SHOP DRAWINGS: After checking and verifying all field measurements, the CONTRACTOR shall submit to the CONSULTANT and the VILLAGE'S PROJECT MANAGER for review, in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.9) copies (or at the CONSULTANT'S option, one reproducible copy) of all Shop Drawings, which shall have been checked





by and stamped with the approval of the CONTRACTOR. The data shown on the Shop Drawings shall be complete with respect to dimensions, design criteria, materials of construction and the like to enable the EOR to review the information as required.

Shop drawings shall include, but not be limited to the following information:

- 6.11.1.2 Fabrication and installation Drawings and details.
- 6.11.1.3 Template placement diagrams.
- 6.11.2.4 Manufacturer's installation instructions.
- 6.11.1.5 Product patterns and colors.
- 6.11.1.6 Coordination Drawings.
- 6.11.1.7 Schedules.
- 6.11.1.8 Product mix formulae.
- 6.11.1.9 Product design or engineering calculations.
- 6.11.1.10 Other information as required by project.

After review, produce copies and distribute per Submittal Procedures article above and for record documents purposes described in Section 6.37 Closeout Submittals.

Submit to EOR for purpose of checking conformance with information given and design concept and Village's Project Manager.

6.11.2 SAMPLES: The CONTRACTOR shall also submit to the EOR for review, with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples shall have been checked by and stamped with the approval of the CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.

Contractor shall submit to Consultant for purpose of checking conformance with information given and design concept expressed in the documents.

After review, Consultant shall submit color board to Village's Project Manager per Submittal Procedures. Samples shall also conform to the following:

- 6.11.2.1 Sample finishes and colors shall be from full range of manufactures' standard colors, textures, and patterns for Consultant's selection and preparation of color board for Village's approval.
- 6.11.2.2 After review and approval by Village, provide duplicates and distribute per Submittal Procedures.
- 6.11.2.3 Submit samples to illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
- 6.11.2.4 Include identification on each sample, with full project information.
- 6.11.2.5 Submit number of samples specified in specification, one of which Consultant shall retain.

Reviewed samples may be used in work, if indicated.

6.11.3 DEVIATIONS: At the time of each submission, the CONTRACTOR shall in writing call the EOR'S attention to any deviations that the Shop Drawings or sample may have from the requirements of the Contract Documents.

6.11.4 CONFORMANCE REVIEW: The EOR shall review within ten (10) days or as extended by Village Shop Drawings and samples, but his review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The review of a separate item as such shall not indicate

review of the assembly in which the item functions. The CONTRACTOR shall make any corrections required by the EOR at CONTRACTOR'S expense and shall return the required number of corrected copies of Shop Drawings and resubmit new samples until the review is satisfactory to the EOR. The CONTRACTOR shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections called for by the CONSULTANT on previous submissions. The CONTRACTOR'S stamp of approval on any Shop Drawings or sample shall constitute a representation to the VILLAGE and the EOR that the CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalogue numbers and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Documents. Shop Drawings submitted without the CONTRACTOR'S stamp or specific written indication shall be returned without action. Shop Drawings and submittal data shall be reviewed two times, thereafter all further review time shall be charged to the CONTRACTOR.

6.11.5 APPROVAL: No work requiring a Shop Drawing or sample submission shall be commenced until the submission has been reviewed and approved by the EORT. A copy of each Shop Drawing and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the EOR.

6.11.6 SPECIFIC DEVIATIONS: The EOR'S review of Shop Drawings or samples shall not relieve the CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents unless the CONTRACTOR has in writing called the EOR'S attention to such deviation at the time of submission and the EOR has given written approval to the specific deviation, nor shall any review by the EOR relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

6.11.7 Where a Shop Drawing or sample is required by the Specifications, any related WORK performed prior to EOR'S review and acceptance of the pertinent submission shall be the sole expense and responsibility of CONTRACTOR.

#### 6.12 SITE CLEAN UP:

6.12.1 SITE: The CONTRACTOR shall clean up behind the Work as much as is reasonably possible as the Work progresses. Upon completion of the Work, and before acceptance of and final payment for the Project by the VILLAGE, the CONTRACTOR shall remove all his surplus and discarded materials, excavated material and rubbish from the roadways, sidewalks, parking areas, lawns and all adjacent property; shall clean his portion of Work involved in any building under this Contract, so that no further cleaning by the VILLAGE is necessary prior to his occupancy; shall restore all property, both public and private, which has been disturbed or damaged during the prosecution of the Work; and shall leave the whole in a neat and presentable condition.

6.12.2 BUILDING CLEAN-UP: Clean-up operations shall consistently be carried on by the CONTRACTOR at all times to keep the premises free from accumulation of waste materials and rubbish. Upon completion of the Work, he shall remove all rubbish, tools, scaffolding, surplus materials, etc., from the building and shall leave his work "broom clean", or its equivalent, unless more exactly specified elsewhere in the Contract. The CONTRACTOR shall do the following special cleaning for all trades upon completion of the Work:

- 6.12.2.1 Remove putty stains and paint from and wash and polish all glass. Do not scratch or otherwise damage glass.
- 6.12.2.2 Remove all marks, stains, fingerprints and other soil and dirt from painted, stained and decorated work.
- 6.12.2.3 Remove all temporary protections and clean and polish floors.
- 6.12.2.4 Clean and polish all hardware for all trades; this shall





include removal of all stains, dust, dirt, paint, etc.

6.12.2.5 General: In case of dispute, the VILLAGE may remove the rubbish and charge the cost to the CONTRACTOR.

#### 6.13 PUBLIC CONVENIENCE AND SAFETY:

6.13.1 Convenience: The CONTRACTOR shall, at all times, conduct the Work in such a manner as to insure the least practicable obstruction to public travel. The convenience of the general public and of the residents along and adjacent to the area of the Work shall be provided for in a satisfactory manner, consistent with the operation and local conditions.

6.13.2 Safety: "Street Closed" signs shall be placed immediately adjacent to the Work, in a conspicuous position, at such locations as traffic demands. At any time that streets are required to be closed, Contractor shall obtain approval to close the street from the appropriate regulatory agencies having jurisdiction. The CONTRACTOR shall notify law enforcement agencies, fire departments, and parties operating emergency vehicles before the street is closed and again as soon as it is opened. Approval from the VILLAGE shall be coordinated through the office of the Director of Public Works including notification of the news media and affected property owners. Access to fire hydrants and other fire extinguishing equipment shall be provided and maintained at all times. Traffic paths shall be maintained for local traffic.

#### 6.14 SANITARY PROVISIONS:

6.14.1 The CONTRACTOR shall furnish necessary toilet conveniences, secluded from public observation, for use of all personnel on the Work, whether or not in his employ. They shall be kept in a clean and sanitary condition and shall comply with the requirements and regulations of the Public Authorities having jurisdiction. He shall commit no public nuisance. Temporary sanitary facilities shall be removed upon completion of the Work and the premises shall be left clean.

#### 6.15 INDEMNIFICATION:

6.15.1 CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the Village, its employees, representatives, and elected officials from any and all claims and liabilities including all attorney's fees and court costs, including appeals, for which the Village, its employees, representatives, and elected officials can or may be held liable as a result of injury (including death) to persons or damage to property occurring by reason of any negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR, its employees, or agents, arising out of or connected with this Agreement. The CONTRACTOR shall not be required to indemnify the Village or its agents, employees, representatives, or elected officials when an occurrence results solely from the wrongful acts or omissions of the Village, or its agents, employees or representatives.

6.15.2 The CONTRACTOR, without exemption, shall indemnify and hold harmless, the Village, its employees, representatives and elected officials from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, service marked, trademarked patented or unpatented invention, process, or any other intellectual property right or item manufactured by the CONTRACTOR. Further, if such a claim is made, or is pending, the CONTRACTOR may, at its option and expense, procure for the Village the right to use, replace, or modify the item to render it non-infringing. If none of the alternatives are reasonably available, the Village agrees to return the article on request to the CONTRACTOR and receive reimbursement from the CONTRACTOR. If the CONTRACTOR used any design, device or materials covered by letters, patent or copyright, it is mutually agreed and understood, without exception, that the Bid prices shall include all royalties or cost arising from the use of such design, device or materials in any way involved in the work. This article shall survive the termination of any contract with the Village.

6.15.3 The parties agree that Ten Dollars (\$10.00) of the total

compensation paid to the Bidder for performance of this Agreement shall represent the specific consideration for the Bidder's indemnification of the Owner.

6.15.4 The Village reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of CONTRACTOR under the indemnification agreement.

6.15.5 It is the specific intent of the parties hereto that the foregoing indemnification complies with F.S. 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.

6.15.6 Nothing contained herein is intended nor shall be construed to waive Village's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

#### 6.16 CLAIMS:

6.16.1 In any and all claims against the VILLAGE or the EOR or any of their agents or employees, by any employee of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph.

6.15 (Indemnification) shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any Subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.

6.16.2 Obligation: The obligations of the CONTRACTOR under paragraph 6.13 shall not extend to the liability of the EOR'S negligent acts, errors or omissions or those of his employees or agents.

#### 6.17 RESPONSIBILITY FOR CONNECTING TO EXISTING WORK:

6.17.1 It shall be the express responsibility of the CONTRACTOR to connect his Work to each part of the existing work or work previously installed as required by the Drawings and Specifications to provide a complete installation.

#### 618 WORK IN STREET, HIGHWAY AND OTHER RIGHTS-OF-WAY: (move to 4.1 section)

6.18.1 Excavation, grading, fill, storm drainage, paving and any other construction or installations in rights-of-way of streets, highways, public carrier lines, utility lines (either aerial, surface or subsurface), etc., shall be done in accordance with requirements of these Specifications and authorities having jurisdiction. The CONTRACTOR shall be responsible for obtaining all permits necessary for the work. Upon completion of the Work, CONTRACTOR shall present to EOR certificates, in triplicate, from the proper authorities stating that the Work has been done in accordance with their requirements.

6.18.2 The VILLAGE shall cooperate with the CONTRACTOR in obtaining action from any utilities or public authorities involved in the above requirements.

#### 6.19 COOPERATION WITH GOVERNMENTAL DEPARTMENTS, PUBLIC UTILITIES, ETC.:

6.19.1 The CONTRACTOR shall be responsible for making all necessary arrangements with governmental departments, public utilities, public carriers, service companies and corporations owning or controlling roadways, railways, water, sewer, gas, electrical, cable television, telephone, and telegraph facilities such as pavements, tracks, piping, wires, cables, conduits, poles, guys, etc., including incidental structures connected therewith, that are encountered in the Work in order that such items may be properly shored, supported and protected, or the CONTRACTOR may relocate them with Utility Owner's approval,



if he so desires.

6.19.2 NOTICES: The CONTRACTOR shall give all proper notices, shall comply with requirements of such parties in the performance of his Work, shall permit entrance of such parties on the Project in order that they may perform their necessary work, and shall pay all charges and fees made by such parties for this work.

6.19.3 GOVERNMENT AGENCY CAUSED DELAYS: The CONTRACTOR'S attention is called to the fact that there may be delays on the Project due to work to be done by governmental departments, public utilities, and others in repairing or moving poles, conduits, etc. The CONTRACTOR shall cooperate with the above parties, in every way possible, so that the construction can be completed in the least possible time.

6.19.4 CODES, LAWS, ORDINANCES AND REGULATIONS: The CONTRACTOR shall have made himself familiar with all codes, laws, ordinances and regulations which in any manner affect those engaged in the Work, or materials and equipment used in or upon the Work, or in any way affect the conduct of the Work, and no plea of misunderstanding shall be considered on account of his ignorance thereof.

6.20 USE OF PREMISES: (move to contractor responsibilities)

6.20.1 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by laws, ordinances, and regulations, rights-of-way, permits, easements, and directions of the VILLAGE'S REPRESENTATIVE, and shall not reasonably encumber the premises with construction equipment or other materials or equipment.

6.20.2 CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the VILLAGE or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the WORK. Should any claim be made against the VILLAGE or EOR by any such owner or occupant because of the performance of the WORK, CONTRACTOR shall promptly attempt to settle with such other party by Contract or otherwise resolve the claim. CONTRACTOR shall, to the fullest extent permitted by laws and regulations, indemnify and hold the VILLAGE and EOR harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against the VILLAGE or EOR to the extent based on a claim arising out of CONTRACTOR'S performance of the WORK.

6.20.3. During the progress of the WORK, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other and other debris resulting from the WORK. At the completion of the WORK CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by the VILLAGE. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

6.20.4 CONTRACTOR shall not overload or permit any part of any structure to be loaded with such weight as shall endanger its safety, nor shall he subject any part of the Work to stresses or pressures that shall endanger it.

6.20.5 CONTRACTOR shall enforce the VILLAGE'S PROJECT MANAGER's instructions in connection with signs, advertisements, fires and smoking.

6.20.6 CONTRACTOR shall arrange and cooperate with VILLAGE in routing and parking of automobiles of his employees, Subcontractors and other personnel, and in routing material delivery trucks and other

vehicles to the Project site.

6.21 PROTECTION OF EXISTING PROPERTY IMPROVEMENTS:

Related Articles:

- 6.2- Contractor Risk and Work Protection
- 6.10-Safety, Protection, Storage and emergencies
- 6.38-Temporary barriers and Enclosures
- 6.39-Security

6.21.2 Any existing surface or subsurface improvements, such as pavements, curbs, sidewalks, pipes or utilities, footings, or structures (including portions thereof), trees and shrubbery, not indicated on the Drawings or noted in the Specifications as being removed or altered shall be protected from damage during construction of the Project. Any such improvements damaged during construction of the Project, whether or not such improvements appear on the drawings, shall be restored to a condition equal, or better, to that existing at time of award of Contract. Such restoration or repair shall be at the sole expense of the Contractor, and no claim for an increase in the Contract Price under paragraph 6.21 or under Article 10 shall be allowed.

6.22 TEMPORARY HEAT:

6.22.1 The CONTRACTOR shall provide heat, fuel and services as necessary to protect all work and materials, within all habitable areas of permanent building construction, for all contracts against injury from dampness and cold until final acceptance of all work and materials for the Project, unless building is fully occupied by the VILLAGE prior to such acceptance, in which case the VILLAGE shall assume all expenses of heating from date of full occupancy. Unless otherwise specifically permitted by Special Conditions, the permanent heating system shall not be used to provide temporary heat. CONTRACTOR'S proposed methods of heating shall be submitted for approval.

6.23. SCHEDULE

6.23.1 CONTRACTOR shall submit to EOR for review and comment (to the extent indicated in paragraph 2.6. Finalizing Schedule) proposed adjustments in the progress schedule to reflect the impact thereon of new developments; these shall conform generally to the progress schedule then in effect and additionally shall comply with any provisions of the General Requirements applicable thereto. All approved changes shall be memorialized as change orders.

6.24 CONTINUING THE WORK:

6.24.1 CONTRACTOR shall carry on the WORK and adhere to the progress schedule during all disputes or disagreements with the VILLAGE. No WORK shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Article 15 (Suspension and termination of Work) or as CONTRACTOR and the VILLAGE may otherwise agree in writing.

6.25 CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE:

Related Articles: Warranties Attachment 14.4, Contractor's Warranty of Title

6.25.1 CONTRACTOR warrants and guarantees to VILLAGE and EOR that all work shall be in accordance with the Contract Documents and shall not be *defective*. That Contractor guarantees to repair, replace or otherwise make good to the satisfaction of the VILLAGE any defect in workmanship or material appearing in the Work; and further guarantees the successful performance of the Work for the service intended.

Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

6.25.1.1 Abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors or



Suppliers; or;

6.25.1.2 Normal wear and tear under normal usage.

6.25.2 Contractor's obligation to perform and complete the WORK in accordance with the Contract Documents shall be absolute. None of the following shall constitute an acceptance of WORK that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the WORK in accordance with the Contract Documents:

6.25.2.1 Observations by EOR;

6.25.2.2 Recommendation of any progress or final payment by EOR;

6.16.2.3 The issuance of a certificate of Substantial Completion or any payment by VILLAGE to CONTRACTOR under the Contract Documents;

6.25.2.4 Use or occupancy of the WORK or any part thereof by VILLAGE;

6.25.2.5 Any acceptance by VILLAGE or any failure to do so;

6.25.2.6 Any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by EOR pursuant to paragraph 14.10.

#### 6.26 DELETION/OVERSIGHT/MISSTATEMENT:

6.26.1 Any deletion, oversight or misstatement of the Specifications shall not release the Bidder from the responsibility of completing the project within the agreed upon time frame.

6.26.2 The cost of incidental work described in these Contract Requirements, for which there are no specific Contract Items, shall be considered as part of the general cost of doing the work and shall be included in the prices for the various Contract Items. No additional payment will be made, therefore.

#### 6.27 EXCEPTIONS TO SPECIFICATIONS:

6.27.1 Any exceptions to the Specifications and/or drawings must be brought to the attention of the Purchasing Department in writing prior to the expiration of the Bid question period. Failure to list any exceptions with the Purchasing Department in writing prior to the end of the Bid question period means the Bidder is complying 100% with the Specifications. All materials may be inspected by the Village upon delivery for compliance with the Specifications. Deviations from the specifications shall be cause for the bid to be rejected as non-responsive unless the deviation was approved prior to the submittal of bids.

6.27.2 Any deletion, oversight or misstatement of these Specifications shall not release the Bidder from full responsibility for unsatisfactory workmanship and /or materials, together with all appurtenances necessary for unrestricted operation, as determined by the Village in its sole discretion.

#### 6.28 SILENCE OF SPECIFICATIONS:

6.28.1 The apparent Silence of any Specification as to any details, or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that materials of the first quality and correct type, size and design are to be used. All workmanship is to be of first quality.

6.28.1.1 Work not specified in the Specifications but involved in carrying out their intent or in the complete and proper execution of the work, is required and shall be performed by the Contractor as though it were specifically delineated or described.

#### 6.29 QUALITY

6.29.1 Items delivered as a result of award from this bid shall be free of defects. Any item(s) not meeting this specification shall be picked-up by the awarded Bidder for immediate replacement at no additional charge to the Village.

#### 6.30 TRANSPORTATION AND HANDLING:

6.30.1 Transport and handle Products in accordance with manufacturer's instructions.

6.30.2 Promptly inspect shipments to ensure that Products comply with requirements, quantities are correct, and Products are undamaged.

6.30.3 Provide equipment and personnel to handle Products by methods to prevent soiling, disfigurement, or damage.

#### 6.31 DISPOSAL:

6.31.1 Before the Contractor disposes of any existing improvements or equipment which is to be removed as a portion of the work, and for which disposition is not specifically provided for elsewhere in these Specifications, he shall contact the VILLAGE and determine if the removal items are to be salvaged. Items to be salvaged by the VILLAGE shall be neatly stockpiled or stored in a neat and acceptable manner at the construction site easily accessible to the VILLAGE. Equipment and materials which shall not be salvaged by the VILLAGE shall become the property of the Contractor to be removed from the site and disposed of in an acceptable manner.

#### 6.32 OCCUPATIONAL HEALTH AND SAFETY:

6.32.1 The CONTRACTOR, as a result of award of the bid, delivering any toxic substances item as defined in Code of Federal Regulation Chapter 29, shall furnish to the Purchasing Department, a Material Safety Data Sheet (MSDS). The material safety data sheet shall be provided with initial shipment and shall be revised on a timely basis as appropriate. The MSDS must include the following information:

6.32.2 The chemical name and the common name of the toxic substance.

6.32.3 The hazards or other risks in the use of the toxic substance, including:

6.32.3.1 The potential for fire, explosion, corrosion and reactivity.

6.32.3.2 The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and

6.32.3.3 The primary routes of entry and symptoms of overexposure.

6.32.4 The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances including appropriate emergency treatment in case of overexposure.

6.32.5 The emergency procedure for spills, fire, disposal and first aid.

6.32.6 A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.

6.32.7 The year and month, if available, that the information was compiled and the name, address and emergency telephone number of the manufacturer responsible for preparing the information. Any questions regarding this requirement should be directed to: Department of Labor and Employment Security, Bureau of Industrial Safety and Health, Toxic Waste Information Center, 2551 Executive Center Circle West, Tallahassee, FL 32301-5014, Telephone 1800-367-4378.

#### 6.33 OSHA:



6.33.1 The CONTRACTOR warrants that the product/services supplied to the Village shall conform in all respects to the standards set forth in the Occupational Safety and Health Act 1970, as amended, and the failure to comply with this condition shall be considered as a breach of contract.

6.34 CONDITIONS AND PACKAGING:

Related Article: 6.4 Labor, Materials and Equipment: Conditions, Substitutions

6.34.1 It is understood and agreed that any item offered or shipped as a result of this bid shall be new (current production model at the time of the bid). All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.

6.35 UNDERWRITERS' LABORATORIES:

6.35.1 Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall be UL listed or re-examination testing where such has been established by UL for the items offered and furnished.

6.36 ASBESTOS:

6.36.1 Contractor shall not use any asbestos or asbestos-based fiber materials in the Work performed under this Contract.

6.36.2 If the CONTRACTOR during the course of the WORK observes the existence of asbestos in any structure, building or facility, the CONTRACTOR shall promptly notify the VILLAGE and the EOR. The VILLAGE shall consult with the EOR regarding removal or encapsulation of the asbestos material and the CONTRACTOR shall not perform any WORK pertinent to the asbestos material prior to receipt of special instructions from the VILLAGE through the EOR.

6.37 CLOSEOUT SUBMITTALS:

PART 1 GENERAL

6.37.1 SCOPE OF WORK

- 6.37.1.1 Closeout procedures.
- 6.37.1.2 Final cleaning.
- 6.37.1.3 Adjusting.
- 6.37.1.4 Project record documents.
- 6.37.1.5 As-built survey.
- 6.37.1.6 Operation and maintenance data.
- 6.37.1.7 Spare parts and maintenance Products.
- 6.37.1.8 Warranties and bonds.
- 6.37.1.9 Maintenance service.

6.37.2 RELATED SECTIONS

- Payment Procedures.
- Submittal Procedures.
- Commissioning.
- Testing, Adjusting and Balancing of HVAC.
- Commissioning of HVAC.

6.37.3 CLOSEOUT PROCEDURES

6.37.3.1 Submit written certification that contract documents were reviewed, work inspected, and that work is complete in accordance with contract documents and ready for VILLAGE'S Project Manager and EOR'S review.

6.37.3.2 Provide submittals to EOR and VILLAGE's Project Manager that are required by governing or other authorities.

Submit final application for payment identifying total adjusted contract sum, previous payments, and sum remaining due.

VILLAGE may opt to occupy or portions of completed facilities upon substantial completion of those portions of work.

Contractor/CM shall provide punch list to EOR identifying items remaining to be completed.

EOR shall inspect project to determine completion of punch list and project compliance with Contract Documents.

6.37.4.1 Execute final cleaning prior to final project assessment.

6.37.4.2 Clean interior and exterior glass, surfaces exposed to view; remove temporary labels, stains and foreign substances, wax, clean and polish transparent and glossy surfaces, vacuum carpet and soft surfaces.

6.37.4.3 Clean equipment and fixtures to sanitary condition with cleaning materials per manufacturer's written recommendations.

6.37.4.4 Replace filters of operating equipment.

6.37.4.5 Clean debris from roofs, gutters, downspouts, and drainage systems.

6.37.4.6 Clean site; sweep paved areas, rake clean landscaped surfaces.

6.37.4.7 Remove waste and surplus materials, rubbish, and construction facilities from the site.

6.37.4.8 Clean and sanitize water fountains (coolers).

6.37.4.9 Clean ledges countertops and shelves with all-purpose non-abrasive cleaner leaving no residue.

6.37.5 ADJUSTING

6.37.5.1 Adjust operating products and equipment to ensure smooth and unhindered operation.

6.37.6 PROJECT RECORD DOCUMENTS

6.37.6.1 Maintain on site one set of record documents, recording accurate field revisions to contract documents to include:

- Drawings/specifications and addenda.
- Change orders and other modifications to work.
- Reviewed shop drawings, product data, and samples.
- Manufacturer's instruction for assembly, installation, and adjusting.

6.37.6.2 Ensure entries are complete and accurate, enabling ready access and reference by VILLAGE's Project Manager.

6.37.6.3 Store record documents separate from documents used for construction.

6.37.6.4 Record information concurrent with construction progress.

6.37.6.5 Specifications shall be legibly marked and recorded for each product used indicating the following:

- Manufacturer's name, product model and number.
- Product substitutions or alternates utilized.
- Changes made by addenda and modifications.

6.37.6.6 Record drawings and shop drawings shall be legibly marked with each item recorded to indicate actual construction as follows."





1. Measured depths of foundations in relation to finish first floor datum.
2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the work.
4. Field changes of dimension and details.
5. Details not on original contract drawings.

- |   |        |
|---|--------|
| e. Roof Access Panels                     | Cyan   |
| f. Flammable Storage Spaces               | Red    |
| g. Custodial Storage                      | Orange |
| h. Walls, windows, room names and numbers | Gray   |

6.37.7 OPERATION AND MAINTENANCE DATA

6.37.7.1 Submit documentation as noted in individual product specifications and as noted herein.

6.37.8 SPARE PARTS AND MAINTENANCE PRODUCTS

6.37.4 FINAL CLEANING

6.37.8.1 Provide spare parts, maintenance, and extra products in quantities specified in specification.

6.37.8.2 Deliver to VILLAGE; obtain receipt prior to final payment.

6.37.9 WARRANTIES

6.37.9.1 Submit documentation as noted in individual product specifications and as noted herein.

6.37.9.2 Provide duplicate notarized copies.

6.37.9.3 Execute and assemble transferable warranty documents from subcontractors, suppliers, and manufacturers.

6.37.9.4 Provide Table of Contents and assemble in D-side 3-ring white binders with typed title sheet of contents inside durable plastic front cover.

6.37.9.5 Submit prior to final application for payment.

6.37.9.6 For items of work delayed beyond date of substantial completion, provide updated submittal within ten days after acceptance, listing date of acceptance as start of warranty period.

6.37.10 MAINTENANCE SERVICE

6.37.10.1 Furnish service and maintenance of components indicated in specification sections for one-year from date of substantial completion.

6.37.10.2 Examine, clean, adjust, and lubricate system components as required for reliable operation.

6.37.10.3 Include systematic examination, adjustment, and lubrication of components repairing or replacing parts as required with parts produced by the manufacturer of the original component.

6.37.10.4 VILLAGE shall approve in writing of transfers or reassignments of maintenance service tasks.

6.37.11 ASBESTOS CERTIFICATION

6.37.11.1 Provide notarized letter from Contractor/CM certifying that "to the best of his/her knowledge no asbestos containing building materials were used as a building material in the project", per FS 255.40.

6.38 TEMPORARY BARRIERS AND ENCLOSURES

6.38.1 GENERAL

Related Articles:

6.2- Contractor Risk and Work Protection

6.10-Safety, Protection, Storage and emergencies

6.21 Protection of Existing Property Improvements

6.38-Temporary barriers and Enclosures

6.39-Security

6.37.6.7 As-built survey: Upon completion of site construction improvements, provide EOR and VILLAGE's Project Manager with complete and accurate field survey prepared, signed and sealed by Florida registered surveyor.

6.37.6.8 Provide exact horizontal and vertical location relative to property lines and NGVD of buildings, concrete and asphalt surfaces and all drainage features including lakes, detention areas, berms, embankments, swales drainage inlets, storm-water outfalls, storm and sewer manholes and water shut off valve locations.

6.37.6.9 Provide actual grades of spot elevations shown on paving and drainage plans.

6.37.6.10 Provide sufficient information indicating a true representation of constructed grade conditions for areas where grading between two elevation points is not constructed at uniform slope.

6.37.6.11 Survey shall include cross sections elevations at 50' stations of swales, lakes, and drainage retention areas including banks, berms, bottoms and transitions constructed or improved.

Elevations shown shall be accurate to the nearest tenth of a foot.

6.37.6.12 Upon project completion, transfer project record drawing information and recording of building and site survey information to AutoCAD (2008 or later format) files and provide two copies of CD's to EOR for review and transmitted to VILLAGE, prior to claim for final Application for Payment.

Contractor/CM shall also submit hard copies of record drawings and project manual maintained during project to VILLAGE's Project Manager.

VILLAGE will be responsible for making prints from CD's and for their distribution to VILLAGE's user groups.

6.37.6.13 Submit one additional CD in AutoCAD to VILLAGE for distribution to Sheriff's Department with following information:

Provide Site Plan on black background indicating the following site information and in colors and layers indicated.

- |   |         |
|---|---------|
| a. Roads and Driveways into and on-site | White   |
| b. Backflow and PIV Valves              | Cyan    |
| c. Valves for Fire Lines                | Magenta |
| d. Fire Hydrants                        | White   |
| e. Emergency Generator                  | Cyan    |
| f. Flammable Storage Buildings          | Red     |
| g. Gas Tanks                            | Red     |

Provide separate drawing files for each floor plan along with mechanical mezzanines and roof access locations showing following systems and in colors and layers indicated.

- |                        |         |
|------------------------|---------|
| a. Intercom Panel      | Yellow  |
| b. Fire Alarm Panel    | Red     |
| c. Electrical Panels   | Magenta |
| d. HVAC Control Panels | White   |



6.38.1.1 SCOPE OF WORK

6.38.1.2 Temporary barriers and enclosures to provide construction work areas separate from Owner's on-going operations.

6.38.1.3 Protection of new work, existing facilities and grounds from damage, theft, vandalism, and unauthorized entry.

6.38.1.4 Six (6) foot high chain link fencing surrounding and separating areas under construction including area for contractor's mobilization and parking separate from existing facilities and on-going Village activities.

6.38.1.5 Demising walls and other barriers as required to separate building areas under construction that permits safe and unobstructed exiting of partially Owner-occupied buildings.

6.38.1.6 Safety of construction workers, Village staff, and visitors located in areas of Village facilities not under renovation or construction.

6.38.1.7 Control dust, erosion and sediment, noise, pollution, rodent and environmental control.

6.38.2 RELATED DOCUMENTS

Project Management and Coordination.

Security Procedures.

Submittal Procedures.

6.38.3 ENTRY CONTROL

6.38.3.3 Restrict entrance of persons and vehicles into Project site and existing facilities in accord with Section 01 35 33 – Security Procedures.

6.38.3.4 Prior to project commencement, Contractor's on-site personnel shall meet with Owner's Project Manager for renovation and new construction to delineate areas for Contractor's operations to include storage and office trailers, parking, material storage lay-down areas.

6.38.3.5 Material deliveries shall be coordinated with Village staff to ensure safe transit of staff across delivery routes.

6.38.3.6 Interruption of preapproved entry controls shall be coordinated with Owner's Project Manager prior to proposed interruption.

6.38.3.7 Allow entrance only to authorized persons with proper identification.

6.38.3.8 Contractor/CM shall post "No Trespassing" and "Hard Hat Area" signs along project perimeter and at construction access points.

1. No Trespassing sign shall include statutory language that area is construction site and that trespassing, and theft are felonies and violators will be prosecuted.

2. No Trespassing sign shall include name of Contractor/CM.

3. No Trespassing signs shall not be larger than 24" (600mm) by 24" (600mm).

4. Hard Hat Area sign shall not be larger than 12" (300mm) by 12" (300mm).

6.38.4 DEMISING WALLS

6.38.4.1 Where location of construction is contiguous to or within existing Village Facility, Provide demising walls to physically separate new or renovation work from existing on-going Village operations.

6.38.4.2 Demising walls shall be continuous plywood with vapor barrier and wood framing to prevent unauthorized entrance, dust or debris from entering occupied portion of Village Facility.

6.38.4.3 Where construction is overhead, provide safe and secure method of access through or adjacent to work with system of

scaffolding, plywood or wood planking overhead to prevent falling debris or materials from interrupting safe passage through construction area.

6.38.5 FENCING

6.38.5.1 Areas under construction including area for contractor's mobilization and parking shall be separated from existing Village facilities and on-going Village activities with fencing.

6.38.5.2 Provide 6' high chain link fencing along construction zone boundaries not facing existing buildings.

6.38.5.3 Provide with 6' high chain link fencing with visual fabric covering along construction zone boundaries greater than 20' of existing buildings not in construction zone.

6.38.5.4 Provide with 6' high chain link fencing with plywood covering along construction zone boundaries greater less than 20' of existing buildings not in construction zone.

6.38.5.5 Fencing shall be designed to resist winds up to 74 miles per hour.

6.38.5.6 Contractor (CM) shall have option of providing fencing designed to withstand 140 miles per hour or be completely removed 24 hours prior to occurrence of anticipated high wind event.

6.38.5.7 Provide access gates required by code for ingress and egress and for Owner's and Contractor/CM's access to Owner's access to occupied portion of site and for construction access.

6.38.6 ENVIRONMENTAL CONTROLS

6.38.6.1 Protect existing buildings and adjacent property from dust produced by construction operations. Use encapsulating or wetting devices to control moisture content of traffic and construction areas.

6.38.6.2 Control surface drainage to prevent off site discharge of pollutants and prevent erosion and sedimentation.

6.38.6.3 Provide berms, dikes or drains to divert water flow away from new or existing structures into storm water retention areas.

6.38.6.4 Provide methods necessary to prevent mud and debris from entering storm water system.

6.38.6.5 Provide methods necessary to prevent excessive noise on site.

1. Comply with OSHA and Owner's noise requirements.

6.38.6.6 Provide methods necessary to prevent pests and insects from damaging the work.

6.38.6.7 Provide methods necessary to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances or pollutants from construction operations.

6.38.7 SUBMITTALS

6.38.7.1 Comply with Section "Submittal Procedures."

6.38.7.2 Submit site plan and floor plans indicating locations and material construction of proposed protective structures.

6.38.8 TEMPORARY FENCING

6.38.8.1 Six (6) foot high, minimum 10 gage aluminum or galvanized steel fabric.

6.38.8.2 Fencing shall have six-foot-high visual fabric cover to block visual access to construction activities.

6.38.8.3 5/8" C/D plywood sheets, pressure treated or other means of weather protection, with 2 x 4 wood framing at edges and 24" maximum vertical spacing.



6.38.9 TEMPORARY WALLS

6.38.9.1 Demising Wall: 5/8" C/D plywood sheets, 2 x 4 wood framing at 24" maximum spacing, and 10 mil black polyethylene vapor barrier covering with sealed joints.

6.38.9.2 Overhead Protection: Metal scaffolding with 3/4" B/C plywood or 2" x 12" wood planking.

6.38.10 EXECUTION/ 1 INSTALLATION AND REMOVAL

6.38.10.1 Temporary fencing shall be installed prior to start of vertical construction and removed upon completion of work.

6.38.10.2 Demising walls shall be installed prior to start of renovations or building additions and removed work.

6.38.10.3 Walls shall be protected or removed during storm events where winds are anticipated to exceed 74 miles per hour.

6.39 SECURITY PROCEDURES

6.39.1 SCOPE OF WORK

6.39.1.1 Development of site security program, project entry control procedures, personnel screening and identification.

6.39.1.2 RELATED SECTIONS

Project Management and Coordination.

Submittal Procedures.

Temporary Barriers and Enclosures.

6.39.2 SECURITY PROGRAM

6.39.2.1 Protect new work, existing facilities and grounds from damage, theft, vandalism, and unauthorized entry.

6.39.2.2 Initiate security program in coordination with Owner's existing security system at time of project mobilization to ensure safety of staff, and visitors to the unaffected portions of the Village facilities.

6.39.2.3 Maintain security program throughout construction period until Owner's project acceptance.

6.39.3 ENTRY CONTROL

6.39.3.1 Restrict entrance of persons and vehicles into Project site and existing facilities as indicated by Owner approved security plan.

6.39.3.2 Allow entrance only to authorized persons with proper identification.

6.39.3.3 Maintain log of workers and visitors, make available to Owner on request.

6.39.3.4 Coordinate access of Owner's personnel to site in coordination with Owner's security forces.

6.39.4 PERSONNEL IDENTIFICATION

6.39.4.1 Contractor/CM on-site staff, subcontractors and vendors on site shall wear identification badges at all times on site.

6.39.4.2 Identification badges shall be current at time of project and shall be re-verified and reissued yearly if project extends past original badge expiration date.

6.39.5 SUBMITTALS

6.39.5.1 Comply with Section Submittal Procedures.

6.39.5.2 Provide list of personnel proposed to be used on project for fingerprinting and background checks.

6.39.5.3 Contractor/CM shall submit initial list of accredited persons and provide monthly updated lists to Owner.

6.39.5.4 Provide security plan to Owner indicating how construction site is to be secured and separated from existing Village facility and its operations including normal and emergency egress and exiting from the operational portion of Village facility and for new additions and existing portion under construction.

6.40 PRODUCT SUBSTITUTION REQUIREMENTS AND PROCEDURES

6.40.1 SCOPE OF WORK

6.40.1.1 Administrative and procedural requirements for consideration of request for substitution during the design and construction phases.

6.40.2 REFERENCES

Submittal Procedures.

References.

Quality Control.

Closeout Submittals.

6.40.3 REQUIREMENTS

6.40.3.1 Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements, and that other products of equal capacities, quality and function may be considered. The CONTRACTOR may request the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the EOR and VILLAGE, such material, article, or piece of equipment is of equal substance and function to that specified, the EOR with concurrence of the VILLAGE'S PROJECT MANAGER may approve its substitution and use by the CONTRACTOR

6.40.3.2 A request constitutes a representation that the Contractor or Bidder:

6.40.3.2.1 Has investigated proposed Product and determined that it meets or exceeds the quality level of the specified Product.

6.40.3.2.2 Will provide the same warranty for the Substitution as for the specified Product.

6.40.3.2.3 Will coordinate installation and make changes to other Work which may be required for the Work to be complete with no additional cost to Owner.

6.40.3.2.4 Waives claims for additional costs or time extension which may subsequently become apparent.

6.40.3.2.5 Will reimburse Owner and Consultant for review or redesign services associated with substitution.

6.40.3.3 The application shall state that the evaluation and acceptance of the proposed substitute shall not prejudice CONTRACTOR'S achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the WORK shall require a change in any of the Contract Documents (or in the provisions of any other direct contract with the VILLAGE for WORK on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the WORK is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified shall be identified in the application and available maintenance, repair and replacement service shall be indicated.

6.40.3.4 The application shall also contain an itemized estimate of all costs and cost savings that shall result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be



considered by EOR in evaluating the proposed substitute. EOR may require CONTRACTOR to furnish at CONTRACTOR'S expense additional data about the proposed substitute.

6.40.3.5 Incidental changes or extra component parts required to accommodate the substitute shall be made by the CONTRACTOR without an increase in the Contract Price or Contract Time. The CONTRACTOR shall reimburse the VILLAGE for charges of the EOR and EOR'S consultants for review evaluating each proposed substitution. These costs shall include transportation to operating installation at factories, etc.

6.40.3.6 No substitute shall be ordered or installed without the written approval of the EOR with the VILLAGE'S PROJECT MANAGER's concurrence. The Village may require the CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute.

6.40.3.7 Delay caused by obtaining approvals for substitute materials or installations shall not be considered justifiable grounds for an extension of construction time.

#### 6.40.4 SUBMITTAL PROCEDURES

6.40.4.1 Transmit three (3) copies of each substitution request on company letterhead with completed Product Substitution Request Form in the Sample Forms Section of the Document.

6.40.4.2 During bidding phase, substitution requests shall be directed to the VILLAGE.

6.40.4.3 During construction phase substitution requests shall be directed to the Village.

6.40.4.4 Substitution Form shall identify project, Contractor/CM and EOR during bidding phase plus Subcontractor or supplier during construction phase indicating Specification Section and Paragraph number of specified material and pertinent drawing and detail numbers, as appropriate.

Include complete information as required in the Substitution Form. Incomplete information will result in automatic rejection of the substitution request.

6.40.4.5 Apply contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information are in accordance with the requirements of the work and contract documents.

6.40.4.6 Schedule submittals to expedite the project and deliver to EOR or Contractor/CM at business address. Coordinate submission of related items.

6.40.4.7 For each submittal for review, allow five (5) workdays excluding delivery time to and from the EOR or CM/Contractor.

6.40.4.8 Identify variations from contract documents and product or system limitations, which may be detrimental to successful performance of the completed work.

6.40.4.9 Provide space for Contractor/CM and EOR review stamps.

6.40.4.10 When revised for resubmission, identify all changes made since previous submission.

6.40.4.11 Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report any inability to comply with requirements.

6.40.4.12 Submittals not requested will not be recognized or processed.

6.40.4.13 Submit shop drawings, product data, and certified test results attesting to the proposed Product equivalence. Burden of proof is on proposer.

6.40.4.14 The Consultant will notify Contractor in writing of decision to accept or reject request.

#### 6.40.5 SUBSTITUTION REQUESTS

Requests for substitutions shall be made not later than ten (10) calendar days prior to bid date. Requests received after the above dates may not be considered.

#### 6.41 FIELD SAMPLES AND MOCKUPS

##### 6.41.1 SCOPE OF WORK

Administrative and procedural requirements for assure quality of construction before and during construction.

General requirements for mockups and field samples, constructed, applied or assembled at the site for reviewed for use as a quality standard.

##### 6.41.2 RELATED SECTIONS

6.11: Shop Drawings and Samples

Payment Procedures

Submittal Procedures.

References.

Quality Control.

Project Storage and Handling Requirements.

Closeout Submittals.

##### 6.41.3 COORDINATION AND PROJECT CONDITIONS

6.41.3.1 Coordinate scheduling, submittals, and work to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.

6.41.3.2 Verify utility requirements and characteristics of operating equipment are compatible with building utilities.

6.41.3.3 Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.

6.41.3.4 Coordinate space requirements, supports and installation of mechanical and electrical work that is indicated diagrammatically on Drawings.

6.41.3.5 Follow routing shown for pipes, ducts, and conduit, as closely as practicable; place runs parallel with line of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.

6.41.3.6 In finished areas, except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.

6.41.3.7 Coordinate completion and clean-up of Work of separate sections in preparation for Substantial Completion and for portions of Work designated for VILLAGE's partial occupancy.

6.41.3.8 After VILLAGE occupancy of premises, coordinate access to site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of VILLAGE's activities.

6.41.3.9 VILLAGE change orders for extra work required by Contractor/CM due to poor coordination with sub trades will not be considered.

##### 6.41.4 FIELD ENGINEERING





Employ Land Surveyor registered in State of Florida approved by VILLAGE from VILLAGE's continuing services providers. Obtain list from VILLAGE's Project Manager.

6.41.4.1 Contractor shall locate and protect survey control and reference points.

6.41.4.2 Control datum for survey is that established by VILLAGE provided survey.

6.41.1.3 Verify setbacks and easements; confirm drawing dimensions and elevations.

6.41.4.4 Provide field engineering services. Establish elevations, lines, and levels, utilizing recognized engineering survey practices.

6.41.4.5 Submit copy of site drawing and certificate signed by the Land Surveyor that the elevations and locations of the Work are in conformance with the Contract Documents.

**6.41.5 MOCKUP REQUIREMENTS**

6.41.5.1 Tests will be performed under provisions identified in this section and identified in respective product specification sections.

6.41.5.2 Assemble and erect specified items with specified attachment and anchorage devices, flashings, seals, and finishes.

6.41.5.3 Accepted mock-ups shall be comparison standard for remaining Work.

6.41.5.4 Where mock-up has been accepted by Architect/Engineer and is specified in product specification sections to be removed; remove mock-up and clear area when directed to do so by Architect/Engineer.

**ARTICLE 7 – OTHER WORK**

**7.1. RELATED WORK AT SITE:**

7.1.1 The VILLAGE may perform other WORK related to the Project at the site by the VILLAGE'S own forces, let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that such other WORK is to be performed was not noted in the Contract Documents, written notice thereof shall be given to CONTRACTOR prior to starting any such other WORK; and, if CONTRACTOR believes that such performance shall involve additional time and the parties are unable to agree as to the extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 (Change in Contract Price) and Article 12 (Change in Contract Time). If the performance of additional WORK by other Contractor or the VILLAGE is noted in the Contract Documents, no additional adjustment of time or compensation shall be considered.

7.1.2 CONTRACTOR shall afford the VILLAGE and other contractors who are a party to such a direct contract (or the VILLAGE, if the VILLAGE is performing the additional WORK with the VILLAGE'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such WORK and shall properly connect.

7.1.2 CONTRACTOR shall afford the VILLAGE and other contractors who are a party to such a direct contract (or the VILLAGE, if the VILLAGE is performing the additional WORK with the VILLAGE'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such WORK and shall properly connect and coordinate the WORK with theirs. CONTRACTOR shall do all cutting, fitting and patching of the WORK that may be required to make its several parts come together properly and integrate with such other WORK. CONTRACTOR shall not endanger any WORK of others by

cutting, excavating or otherwise altering their WORK and shall only cut or alter their WORK with the written consent of the VILLAGE, EOR, and others whose WORK shall be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of the VILLAGE and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between the VILLAGE and other contractors.

7.1.3 If any part of CONTRACTOR'S WORK depends for proper execution or results upon the WORK of any such other contractor other than CONTRACTOR'S OWN SUBCONTRACTOR, (or the VILLAGE), CONTRACTOR shall inspect and promptly report to CONSULTANT in writing any delays, defects or deficiencies in such other WORK that render it unavailable or unsuitable for such proper execution and results of CONTRACTOR'S WORK. CONTRACTOR'S failure to report shall constitute an acceptance of the other WORK as fit and proper for integration with CONTRACTOR'S WORK except for latent defects and deficiencies in the other WORK.

**7.2. COORDINATION:**

7.2.1. If the VILLAGE contracts with others for the performance of other WORK on the Project at the site, the person or organization who shall have authority and responsibility for coordination of the activities among the various prime contractors shall be identified in the Technical Specifications and the specific matters to be covered by such authority and responsibility shall be itemized, and the extent of such authority and responsibilities shall be provided in the Technical Specifications. Unless otherwise provided in the Technical Specifications, neither the VILLAGE nor the EOR shall have any authority or responsibility in respect of such coordination.

**ARTICLE 8 – VILLAGE'S RESPONSIBILITIES**

**8.1 COMMUNICATIONS TO CONTRACTOR:**

8.1.1 VILLAGE shall issue all communications to CONTRACTOR, copy to EOR.

**8.2 FURNISH DATA:**

8.2.1 VILLAGE shall promptly furnish the data required of the VILLAGE under the Contract Documents.

**8.3. PAYMENTS:**

8.3.1 VILLAGE shall make payments to CONTRACTOR promptly when they are due as provided in Sections 14.5 (Review of Application for Progress payment), and 14.10. (Final Payment and Acceptance).

**8.4 LANDS, EASEMENTS: REPORTS AND TESTS:**

8.4.1 The VILLAGE'S duties in respect of providing lands and easements and providing engineering surveys, if available, to establish reference points are set forth in paragraphs 4.1.1(Availability of Land) and 4.5.1 (Reference Points).

8.4.2 The VILLAGE shall identify and make available to CONTRACTOR copies of reports of physical conditions at the Site and drawings of existing structures that have been utilized in preparing the Contract Documents as set forth in Paragraph 4.2, (Report of Physical Conditions).

**8.5 CHANGE ORDERS**

8.5.1 The VILLAGE is obligated to execute Change Orders as indicated in Article 10, (Changes in the Work).

**8.6 SUSPENSION OF WORK**

8.6.1 In connection with the VILLAGE'S right to stop WORK or suspend WORK see paragraph 13.5 (Village May Stop Work) and 15.1 (Village May Suspend Work). Paragraph 15.2 (Village May Terminate for Cause) and 15.3 (Village May terminate Without Cause) deals with



the VILLAGE'S right to terminate services of CONTRACTOR.

#### 8.7 ESTIMATED DOLLAR VALUE:

8.7.1 No guarantee of the dollar amount of this bid is implied or given.

#### 8.8 QUANTITIES:

8.8.1 Quantities shown are estimates only. No guarantee or warranty is given or implied by the Village as to the total amount that may or may not be purchased from any resulting contract. The Village reserves the right to decrease or increase quantities or add or delete any item from the contract if it is determined that it best serves the interests of the Village. Orders shall be placed as needed by individual locations during the contract period. The CONTRACTOR agrees that the price(s) offered shall be maintained irrespective of the quantity actually purchased.

#### 8.9 ADDITIONAL TERMS AND CONDITIONS:

98.8.9.1 No additional terms and conditions included with the Bid response shall be evaluated or considered, have any force or effect, and are inapplicable to this Bid. It is understood and agreed that the conditions in these Bid Documents are the only conditions applicable to this Bid and the CONTRACTOR's authorized signature on the Bid Form attests to this.

### **ARTICLE 9 – CONSULTANT'S (EOR) STATUS DURING CONSTRUCTION**

#### 9.1 VILLAGE'S REPRESENTATIVE:

9.1.1 The EOR (if specifically designated), or a specifically designated employee of the VILLAGE, shall act as the VILLAGE'S REPRESENTATIVE during the construction period. The duties and responsibilities and the limitations of authority of the EOR as one of the VILLAGE'S REPRESENTATIVES during construction are set forth in Articles 1 through 17 of these Supplementary Conditions and shall not be extended without written consent of the VILLAGE'S PROJECT MANAGER and the EOR.

9.1.2 The EOR's decision with the consent of the VILLAGE'S PROJECT MANAGER in matters relating to aesthetics, shall be final, if within the terms of the Contract Documents.

#### 9.1.3 EOR shall work with the VILLAGE to

9.1.3.1 Establish on-site lines of authority and communications:

9.1.3.2 Schedule and conduct pre-construction meeting and progress meetings.

9.1.4 EOR shall also work with the VILLAGE to establish procedures for:

9.1.4.1 Submittals

9.1.4.2 Reports and records

9.1.4.3 Recommendations

9.1.4.4 Coordination of drawings

9.1.4.5 Schedules

9.1.4.6 Resolution of conflicts

#### 9.1.5 EOR shall also

9.1.5.1 Interpret Contract Specifications and Drawings

9.1.5.2 Transmit written interpretations to Contractor, and to other concerned parties.

9.1.5.3 Assist in Obtaining permits and approvals.

9.1.5.4 Verify that Contractor and subcontractors have obtained inspections for Work and for temporary facilities.

9.1.5.5 Assist VILLAGE to control the use of Site:

#### 9.2 VISITS TO SITE:

9.2.1 After written notice to proceed with the WORK, the EOR shall make visits to the site at intervals appropriate to the various stages of construction or as per EOR'S contract with VILLAGE to observe the progress and quality of the executed WORK and to determine, in general, if the WORK is proceeding in accordance with the Contract Documents. On the basis of his on-site observations, as an experienced and qualified design professional, he shall keep the VILLAGE informed of the progress of the WORK, shall endeavor to guard the VILLAGE against defects and deficiencies in the WORK of the Contractor.

#### 9.3 PROJECT REPRESENTATION:

9.3.1 The Village or its authorized agents, inspectors or representatives acting within the scope of duties entrusted to them by the VILLAGE.

#### 9.4 CLARIFICATIONS AND INTERPRETATIONS:

9.4.1 The EOR shall issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as the VILLAGE may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification of interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 (Change in Contract Price) and Article 12 (Change in Contract Time).

#### 9.5 MEASUREMENTS:

9.5.1 MEASUREMENTS: All Work completed under the Contract shall be measured by the EOR'S or VILLAGE'S REPRESENTATIVE or PROJECT REPRESENTATIVE according to the United States Standard Measures. All linear surface measurements shall be made horizontally or vertically as required by the item measured.

#### 9.6 REJECTING DEFECTIVE WORK

9.6.1 The EOR, VILLAGE'S REPRESENTATIVE or PROJECT REPRESENTATIVE shall have authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to final acceptance). They shall also have authority to require special inspection or testing of the Work as they may individually or severally deem necessary, whether or not the Work is fabricated, installed or completed.

9.6.2 Mockups must be approved prior to work beginning. The mockup shall be the basis for the quality of work and the work's acceptance.

#### 9.7 SHOP DRAWINGS, CHANGE ORDERS AND PAYMENTS:

9.7.1 In connection with EOR'S responsibility for Shop Drawings and samples, see Sections 6.11 (Shop Drawings and Samples).

9.7.2 In connection with EOR'S responsibilities as to Change Orders see Article 10, (Changes in the Work), Articles 11 (Change in Contract Price) and Article 12 (Change in Contract Time).

9.7.3 In connection with EOR'S responsibilities in respect of Applications for Payment, etc., see Article 14, (Payments to Contractor and Completion).

#### 9.8 DETERMINATIONS FOR UNIT PRICES:

9.8.1 The VILLAGE PROJECT MANAGER and EOR shall determine the actual quantities and classifications of Unit Price WORK



performed by CONTRACTOR. The VILLAGE PROJECT MANAGER and EOR shall review with CONTRACTOR EOR'S preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). The VILLAGE PROJECT MANAGER'S written decisions thereon shall be final and binding upon the VILLAGE and CONTRACTOR unless, within ten days after the date of any such decision, the CONTRACTOR delivers to the VILLAGE and to EOR written notice of intention to appeal from such a decision.

#### 9.9 DECISIONS ON DISPUTES:

9.9.1 The VILLAGE PROJECT MANAGER with the input of the CONSULTANT shall be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the WORK thereunder. Claims, disputes and other matters relating to the acceptability of the WORK or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the WORK and claims under Articles 11 (Change in Contract Price) and Article 12 (Change in Contract Time) in respect of changes in the Contract Price or Contract Time shall be referred initially to EOR in writing with a request for a formal decision in accordance with this paragraph, which EOR with the consent of the Village Project Director shall render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be delivered by the claimant to The VILLAGE PROJECT MANAGER and EOR and the other party to the Contract promptly (but in no event later than ten (10) days) after the start of the occurrence or event giving rise thereto, and written supporting data shall be submitted to The VILLAGE PROJECT MANAGER and EOR within ten (10) days after such occurrence unless CONSULTANT with the consent of the Village Project Director allows an additional period of time to ascertain more accurate data in support of such claim, dispute or other matter.

9.9.2 The VILLAGE PROJECT MANAGER and EOR shall submit any response to the claimant within ten (10) days after receipt of the claimant's last submittal (unless The VILLAGE PROJECT MANAGER and EOR allows additional time). EOR with the consent of the Village Project Director shall render a formal decision in writing thirty days after receipt of the opposing party's submittal, if any, in accordance with this paragraph. The VILLAGE PROJECT MANAGER'S written decision, on such claim, dispute or other matter shall be final and binding upon CONTRACTOR unless:

(i) an appeal from VILLAGE/ EOR's decision is taken within the time limits and in accordance with the procedures set forth pursuant to Article 16, (Dispute Resolution) or

(ii) a written notice of intention to appeal from The VILLAGE PROJECT MANAGER and EOR's written decision is delivered by CONTRACTOR to the VILLAGE PROJECT MANAGER and EOR within ten (10) days after the date of such decision and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to such claim, dispute or other matter in accordance with applicable Laws and Regulations within thirty (30) days of the date of such decision, unless otherwise agreed in writing by VILLAGE and CONTRACTOR.

9.9.3 The rendering of a decision by The VILLAGE PROJECT MANAGER pursuant to paragraphs 9.8.1, (Determinations for Unit Prices), 9.9.1 and 9.9.2 (Dispute Resolution) with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.11 Waiver of Claims) shall be a condition precedent to any exercise by CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter pursuant to Article 16.

#### 9.10 INSPECTION AND TESTING:

9.10.1 EOR shall inspect work to assure performance in accord  
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with requirements of Contract Documents as follows:

9.10.1.1 Administer special testing and inspections of suspect Work.

9.10.1.2 Reject Work, which does not comply with requirements of Contract Documents.

#### 9.10.2 Coordinate Testing Laboratory Services:

9.10.2.1 Verify that required laboratory personnel are present.

9.10.2.2 Verify that tests are made in accordance with specified standards.

9.10.2.3 Review test reports for compliance with specified criteria.

9.10.2.4 Recommend and administer any required re-testing.

#### 9.11 LIMITATIONS ON EOR:

9.11.1 Neither EOR'S authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by EOR either to exercise or not exercise such authority shall give rise to any duty or responsibility of EOR to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the WORK, or to any surety for any of them.

9.11.2 Whenever in the Contract Documents the term "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of the like effect or import are used to describe a requirement, direction, review or judgment of EOR as to the WORK, it is intended that such requirement, direction, review or judgment shall be solely to evaluate the WORK for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to EOR any duty or authority to supervise or direct the furnishing or performance of the WORK or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.11.3 or 9.11.4.

9.11.3 EOR shall not be responsible for CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and EOR shall not be responsible to CONTRACTOR for CONTRACTOR'S failure to perform or furnish the WORK in accordance with the Contract Documents.

9.11.4 EOR shall not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the WORK.

### ARTICLE 10 – CHANGES IN THE WORK

#### 10.1 AUTHORIZED CHANGES IN THE WORK

10.1.1 Without invalidating the Contract and without notice to any surety, the VILLAGE may, at any time or from time to time, order additions, deletions or revisions in the WORK; these shall be authorized by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the WORK involved that shall be performed under the applicable conditions of the Contract Documents, except as otherwise specifically provided.

10.1.2. If the VILLAGE and CONTRACTOR are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Work Change Directive, a claim may be made therefore as provided in Articles 11 (Change in Contract Price) and Article 12 (Change in Contract Time).





## 10.2 UNAUTHORIZED CHANGES IN THE WORK

10.2.1 CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any WORK performed that is not required by the Contract Documents as amended, modified and supplemented as provided in Section 3.2, (References to Standards) except in the case of an emergency as provided in paragraph 6.10.11 (Emergencies) and except in the case of uncovering WORK as provided in paragraph 13.4.2, (Uncovering Work).

## 10.3 EXECUTION OF CHANGE ORDERS

10.3.1 The VILLAGE and CONTRACTOR shall execute appropriate Change Orders (or Written Amendments) covering:

10.3.1.1 Changes in the WORK, which are ordered by the VILLAGE pursuant to paragraph 10.1.1, (Changes in the Work) are required because of acceptance of *defective* WORK under paragraph 13.8 or correcting *defective* WORK under paragraph 13.9 or are agreed to by the parties.

10.3.1.2 Changes in the Contract Price or Contract time which the parties agree to.

10.3.1.3 Changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by EOR pursuant to paragraph 9.9.1; (Decisions on Disputes) provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provision of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the WORK and adhere to the progress schedule as provided in paragraph 6.24.1.

10.3.2. Surety. It is distinctly agreed and understood that any changes made in the Contract Documents for this WORK (whether such changes increase or decrease the amount thereof) or any change in the manner or time of payments or time of performance made by the VILLAGE to the CONTRACTOR shall in no way annul, release or affect the liability and surety on the Bonds given by the CONTRACTOR. If notice 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 Time) is required by the provisions of any bond to be given to a Surety, the giving of any such notice shall be CONTRACTOR'S responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

10.3.3 Notwithstanding, anything to the contrary contained within the contract documents, all change orders involving additional cost or extensions of time, shall be governed by the ordinances of the VILLAGE.

## **ARTICLE 11 – CHANGE OF CONTRACT PRICE**

### 11.1 GENERAL

11.1.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the WORK. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

11.1.2 The Contract Price may only be changed by a Change Order or by a Written Amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to EOR promptly (but in no event later than ten (10) days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within thirty (30) days after such occurrence (unless EOR allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price

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shall be determined by VILLAGE and EOR in accordance with paragraph 9.9.1 if the VILLAGE and CONTRACTOR cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price shall be valid if not submitted in accordance with this paragraph 11.1.2.

11.1.3 The value of any WORK covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

11.1.3.1 Where the WORK involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of Section 11.5 (Unit Price Work) inclusive).

11.1.3.2 By mutual acceptance of a lump sum (which shall include an allowance for overhead and profit in accordance with paragraph 11.3.1.2.a Contractor's Fee).

11.1.3.3 On the basis of the Cost of the WORK (determined as provided in Section 11.2, inclusive) plus a CONTRACTOR'S Fee for overhead and profit (determined as provided in Section 11.3, Contractor's Fee, inclusive).

### 11.2 COST OF THE WORK:

11.2.1 General. The term Cost of the WORK means the sum of all costs necessary incurred and paid by CONTRACTOR in the proper performance of the WORK. Except as otherwise may be agreed to in writing by the VILLAGE, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 11.2.2: (Exclusions to Cost of the Work).

11.2.1.1 Labor. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the WORK under schedules of job classification agreed upon by the VILLAGE and CONTRACTOR. Payroll costs for employees not employed full time on the WORK shall be apportioned on the basis of their time spent on the WORK. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing WORK after regular working hours, on Saturday, Sunday or legal holidays shall be included in the above to the extent authorized by the VILLAGE.

11.2.1.2 Materials and Equipment. 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 shall accrue to CONTRACTOR unless the VILLAGE deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to the VILLAGE. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the VILLAGE, and CONTRACTOR shall make provisions so that they may be obtained.

11.2.1.3 Subcontractor. Payments made by CONTRACTOR to the Subcontractors for WORK performed by Subcontractors. If required by the VILLAGE, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to the VILLAGE who shall then determine, with the advice of the EOR, which bids shall be accepted. If a 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 shall be determined in the same manner as CONTRACTOR'S Cost of WORK. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.





11.2.1.4 Costs of Special Consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the WORK.

11.2.1.5 Supplemental costs include the following:

a. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and tools not owned by the workers, which are consumed in the performance of WORK, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

b. Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by the VILLAGE with the advice of EOR, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof--all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the WORK. For special equipment and machinery such as power-driven pumps, concrete mixers, trucks, front end loaders, backhoes, and tractors, or other equipment, required for the economic performance of the authorized WORK, the CONTRACTOR shall receive payment based on the weekly rate divided by 40 to arrive at an hourly cost. The weekly rate shall be from the latest edition of the Rental Rate blue book for Construction Equipment, published by Equipment Guidebook Co., reduced by 25 percent. Equipment cost shall be calculated based upon the actual time the equipment is used in the WORK. If said WORK required the use of machinery not on the WORK or not to be used on the WORK, the cost of transportation, not exceeding a distance of one hundred (100) miles, of such machinery to and from the WORK shall be added to the fair rental rate; provided, however, that this shall not apply to machinery or equipment already required to be furnished under the terms of the Contract.

c. Sales, consumer, use or similar taxes related to the WORK and for which CONTRACTOR is liable, imposed by laws and regulations.

d. Royalty payments and fees for permits and licenses.

e. The site costs of utilities, fuel and sanitary facilities.

f. Cost of premiums for additional bonds and insurance required because of changes in the WORK.

11.2.2 Exclusions to Cost of the Work: The term Cost of the WORK shall not include any of the following:

11.2.2.1 Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR'S principal or a branch office for general administration of the WORK and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.2.1.1 or specifically covered by paragraph 11.2.1.4 -- all of which are to be considered administrative costs covered by the CONTRACTOR'S Fee.

11.2.2.2 Expenses of CONTRACTOR'S principal and branch offices other than CONTRACTOR'S office at the site.

11.2.2.3 Any part of CONTRACTOR'S capital expenses, including interest on CONTRACTOR'S capital employed for the WORK and charges against CONTRACTOR for delinquent payments.

11.2.2.4 Cost of premiums for all Bonds and for all Insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums

covered by subparagraph 11.2.1.5f above).

11.2.2.5 Costs due to the negligence or intentional acts of the CONTRACTOR, any Subcontractor, or anyone 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.

11.2.2.6 Costs associated with fringe benefits that are greater than actual costs, i.e., where worker hours exceed a typical 8-hour day and 40-hour workweek.

11.2.2.7 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Section 11.2.

### 11.3 CONTRACTOR'S FEE:

11.3.1 The CONTRACTOR'S Fee for overhead and profits shall be determined as follows:

11.3.1.1 A mutually acceptable fixed fee; or if none can be agreed upon,

11.3.1.2 A fee based on the following percentages of the various portions of the Cost of the WORK:

a. For costs incurred under paragraphs 11.2.1.1 (Labor) and 11.2.1.2, (Materials and Equipment) the CONTRACTOR'S Fee shall be five (5%) percent;

b. For costs incurred under paragraph 11.2.1.3, (Subcontractors) the CONTRACTOR'S Fee shall be five percent; and if a subcontract is on the basis of Cost of the WORK Plus a Fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all Subcontractors shall be five (5%) percent;

c. No fee shall be payable on the basis of costs itemized under paragraphs 11.2.1.4, (Cost of EORs) 11.2.1.5 (Supplemental Costs) and 11.2.2; (Exclusions)

d. The amount of credit to be allowed by CONTRACTOR to the VILLAGE for any such change which results in a net decrease in cost shall be the amount of the actual net decrease plus a deduction in CONTRACTOR'S Fee by an amount equal to ten percent of the net decrease; and

e. When both additions and credits are involved in any one change, the adjustment in CONTRACTOR'S Fee shall be computed on the basis of the net change in accordance with paragraphs 11.3.1.2a through 11.3.1.2d, inclusive.

11.3.2 Whenever the cost of any WORK is to be determined pursuant to paragraph 11.2.1 (General) or 11.2.2, (Exclusions), CONTRACTOR shall submit in form acceptable to EOR an itemized cost breakdown together with supporting data.

### 11.4 CASH ALLOWANCES:

11.4.1 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 done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to the VILLAGE, CONTRACTOR agrees that:

11.4.1.1 The 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

11.4.1.2 CONTRACTOR'S costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract



Price and not in the allowances. No demand for additional payment on account of any thereof shall be valid.

11.4.1.3 Prior to final payment, an appropriate Change order shall be issued as recommended by EOR to reflect actual amounts due CONTRACTOR on account of WORK covered by allowances, and the Contract Price shall be correspondingly adjusted.

#### 11.5 UNIT PRICE WORK:

11.5.1 Where the Contract Documents provide that all or part of the WORK is to be Unit Price WORK, initially the Contract Price shall be deemed to include for all Unit Price WORK an amount equal to the sum of the established unit prices for each separately identified item of Unit Price WORK times the estimated quantity of each item as indicated in the Contract. 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. Determinations of the actual quantities and classifications of Unit Price WORK performed by CONTRACTOR shall be made by EOR VILLAGE in accordance with Paragraph 9.8, Determinations for Unit Prices.

11.5.2 Each unit price shall be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR'S overhead and profit for each separately identified item.

11.5.3 Where the quantity of any item of Unit Price WORK performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Contract and there is no corresponding adjustment with respect to any other item of WORK and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 11 Change of Contract Price, if the parties are unable to agree as to the amount of any such increase.

11.5.4 Where the quantity of any item of Unit Price WORK performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Contract and there is no corresponding adjustment with respect to any other item of WORK and if VILLAGE believes that CONTRACTOR has incurred reduced expense as a result thereof, VILLAGE may make a claim for a decrease in the Contract Price in accordance with Article 11 Change of Contract Price if the parties are unable to agree as to the amount of any such decrease.

#### 11.6 OMITTED WORK:

11.6.1 The VILLAGE may at any time, by written order, without Notice to the Sureties, require omission of such contract WORK as it may find necessary or desirable. An order for omission of WORK shall be valid only by an executable change order. All WORK so ordered must be omitted by the CONTRACTOR. The amount by which the contract price shall be reduced shall be determined as follows:

11.6.1.1 By such applicable unit prices, or rates for WORK of a similar nature or character as set forth in the contract; or,

11.6.1.2. By the appropriate lump sum price set forth in the Contract; or,

11.6.1.3. By the reasonable and fair estimated cost of such omitted WORK and profit percentage as determined by the CONTRACTOR and the EOR and approved by the VILLAGE.

### **ARTICLE 12 – CHANGE OF CONTRACT TIME**

#### 12.1 GENERAL

12.1.1 The Contract Time may only be changed by a Change Order or Written Amendment. Any claim for an extension or shortening of the Contract time shall be based on written notice delivered by the

party making the claim to the other party and to EOR promptly (but in no event later than ten days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within ten (10) days after such occurrence (unless EOR allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. Claims made beyond these time limits shall be null and void.

12.1.2 Requests for extension of time shall be fully documented and shall include copies of daily logs, letters, shipping orders, delivery tickets, and other supporting information. In case of a continuing cause of delay only one (1) claim is necessary. Normal working weeks are based on a five (5) day week. All claims for adjustment of the Contract Time shall be determined by the VILLAGE with input from the EOR. No claim for an adjustment in the Contract Time shall be valid if not submitted in accordance with the requirements of this paragraph 12.1.1.

12.1.3 All time limits stated in the Contract Documents are of the essence of the Contract.

12.1.4 Where CONTRACTOR is prevented from completing any part of the WORK within the Contract Times (or Milestones) that, in the sole judgment of the VILLAGE whose decision shall be binding upon CONTRACTOR are due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) shall be extended in an amount equal to the time lost due to such delay if a claim is made therefore as provided in paragraph 12.1.1.

12.1.5 Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by VILLAGE, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, (Related Work at Sight) fires, floods, epidemics, or acts of God.

12.1.6 The CONTRACTOR must mitigate any loss of time by performing but not be limited to just performing ancillary WORK as is applicable to the project.

12.1.7 Claims for delay due to inclement weather (i.e., beyond the 10-year mean average) shall be made by the 10th day of the month following the month of the delay.

12.1.8 Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.1.9 Where CONTRACTOR IS prevented from completing any part of the WORK within the Contract Times (or Milestones) due to delay beyond the control of both VILLAGE and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR'S sole and exclusive remedy for such delay. In no event shall VILLAGE be liable to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety or employee or agent of any of them, for damages arising out of or resulting from (i) delays caused by or within the control of CONTRACTOR, or (ii) delays beyond the control of both parties including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God or acts of neglect by utility owners or other contractors performing other work as contemplated by Article 7, (Related work at Sight).

#### 12.2 LIQUIDATED DAMAGES.

12.2.1 The VILLAGE and CONTRACTOR recognize and acknowledge that time is of the essence of this Contract and that the VILLAGE shall suffer financial loss if the WORK is not completed within the times specified in paragraph 2.3 of the Supplementary Conditions and the Notice to Proceed, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. Each of the parties acknowledges that it has attempted to quantify the damages



which would be suffered by VILLAGE in the event of the failure of CONTRACTOR to perform in a timely manner, but neither one has been capable of ascertaining such damages with a certainty. VILLAGE and CONTRACTOR also recognize and acknowledge the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the VILLAGE if the WORK is not completed on time. Accordingly, instead of requiring any such proof, the VILLAGE and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay the VILLAGE:

Base Bid Liquidated Damages Per Day	(\$ Dollar Amt
\$1000 to \$20,000	100
20,001 to 75,000	500
75,001 to 150,000	200
150,000 to 350,000	750
350,001 to 750,000	800
750,001 to 1,000,000	1,000
1,000,001 to 2,000,000	1,200
2,000,001 to 3,000,000	1,500
3,000,001 to 4,000,000	1,600
4,000,001 to 5,000,000	1,700
5,000,001 to 6,000,000	1,800
6,000,001 to 7,000,000	1,900
7,000,001 to 8,000,000	2,000
8,000,001 to 9,000,000	2,100
9,000,001 to 10,000,000	2,200
10,000,001 to 11,000,000	2,300
11,000,001 to 12,000,000	2,400
12,000,001 and over	2,500

For each day that expires after the time specified in paragraph 2.3 of the Supplementary Conditions, and the NOTICE TO PROCEED for substantial completion.

12.2.2 After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining WORK within the Contract Time or any proper extension thereof granted by the VILLAGE, CONTRACTOR shall pay VILLAGE.

**Base Bid Liquidated Damages Per Day**

\$1000 to \$20,000	\$25.00
20,001 to 75,000	50.00
75,001 to 150,000	125.00
150,000 to 350,000	187.50
350,001 to 750,000	200.00
750,001 to 1,000,000	250.00
1,000,001 to 2,000,000	300.00
2,000,001 to 3,000,000	370.00
3,000,001 to 4,000,000	400.00
4,000,001 to 5,000,000	425.00
5,000,001 to 6,000,000	450.00
6,000,001 to 7,000,000	475.00
7,000,001 to 8,000,000	500.00
8,000,001 to 9,000,000	525.00
9,000,001 to 10,000,000	550.00
10,000,001 to 11,000,000	575.00
11,000,001 to 12,000,000	600.00
12,000,001 and over	625.00

For each day that expires after the time specified in paragraph 2.3 of the Supplementary Conditions and as stated in the NOTICE TO PROCEED.

12.2.3 This sum is not a penalty, being the liquidated damages, the VILLAGE shall have sustained in event of such default by the Contractor. The VILLAGE reserves the right to additionally recover direct job site expenses incurred during the period of any delay. The

Contractor shall be liable for liquidated damages even if the Contract is terminated by the VILLAGE for cause or if the Contractor abandons the Work. The liability of the Contractor and its surety or sureties for damages provided by this Article is joint and several.

**12.3 REIMBURSEMENT OF CONSULTANT EXPENSES:**

12.3.1 Should the completion of this Contract be delayed beyond the specified or adjusted time limit; CONTRACTOR shall reimburse the VILLAGE for all expenses of consulting and inspection incurred by the VILLAGE during the period between said specified or adjusted time and the actual date of final completion. All such expenses for consulting and inspection incurred by the VILLAGE shall be charged to CONTRACTOR and be deducted from payments due CONTRACTOR as provided by this Contract. Said expenses shall be further defined as EOR charges associated with the construction contract administration, including resident project representative costs.

**ARTICLE 13 – TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

**13.1 NOTICE OF DEFECTS:**

13.1.1 Prompt notice of all defects for which VILLAGE or EOR have actual knowledge shall be given to CONTRACTOR. All defective WORK, whether or not in place, may be rejected, corrected or accepted as provided in Article 13, Test and Inspections: Correction, Removal or Acceptance of Defective Work.

13.1.2 Unremedied defects identified for correction during the guarantee period but remaining after its expiration shall be considered as part of the obligations of the guarantee. Defects in material, workmanship or equipment, which are remedied as a result of obligations of the guarantee, shall subject the remedied portion of the WORK to an extended guarantee period of one year after the defect has been remedied. The Surety shall be bound with and for the Contractor in the Contractor's faithful observance of the guarantee.

**13.2 ACCESS TO WORK:**

13.2.1 EOR'S and EOR'S representatives, other representatives of the VILLAGE, testing agencies and governmental agencies with jurisdictional interests shall have access to the WORK at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

**13.3 TESTS AND INSPECTIONS:**

13.3.1 CONTRACTOR shall give EOR timely notice of readiness of the WORK for all required inspections, tests or approvals.

13.3.2 If Laws or Regulations of any public body having jurisdiction require any WORK (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish EOR the required certificates of inspection, testing or approval. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with the VILLAGE'S or EOR'S acceptance of a Supplier of materials or equipment proposed to be incorporated in the WORK, or of materials or equipment submitted for approval prior to CONTRACTOR'S purchase thereof for incorporation in the WORK.

13.3.3 All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to the VILLAGE (or by EOR if so specified).

13.3.4 If any WORK (including the WORK of others) that is to be inspected, tested or approved is covered without written concurrence of EOR, it must, if requested by EOR, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given EOR timely notice of CONTRACTOR'S



intention to cover the same and EOR has not acted with reasonable promptness in response to such notice.

13.3.5 Neither observations by EOR nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the WORK in accordance with the Contract Documents.

13.3.6 General: For tests specified to be made by the Contractor, the testing personnel shall make the necessary inspections and tests and the reports thereof shall be in such form as will facilitate checking to determine compliance with the Contract Documents. Five (5) copies of the reports shall be submitted, and authoritative certification thereof must be furnished to the Consultant as a prerequisite for the acceptance of any material or equipment.

13.3.6.1 If, in the making of any test of any material or equipment, it is ascertained by the EOR that the material or equipment does not comply with the Contract Documents, the Contractor will be notified thereof and he will be directed to refrain from delivering said material or equipment, or to remove it promptly from the site or from the work and replace it with acceptable material, without cost to the VILLAGE.

13.3.6.2 Tests of electrical and mechanical equipment and appliances shall be conducted in accordance with the recognized test codes.

13.3.7 Costs: All inspection and testing of materials furnished under this Contract will be provided by the Contractor, unless otherwise expressly specified.

13.3.7.1 Materials and equipment submitted by the Contractor as the equivalent to those specifically named in the Contract may be tested by the VILLAGE for compliance. The Contractor shall reimburse the VILLAGE for the expenditures incurred in making such tests of materials and equipment which are rejected for non-compliance.

13.3.8 Certificate of Manufacture: Contractor shall furnish Consultant authoritative evidence in the form of Certificate of Manufacture that the materials to be used in the work have been manufactured and tested in conformity with the Contract Documents.

13.3.8.1 These certificates shall be notarized and shall include copies of the results of physical tests and chemical analyses, where necessary, that have been made directly on the product or on similar products of the manufacturer.

13.3.9 Startup Tests: As soon as conditions permit, the Contractor shall furnish all labor, materials, and instruments and shall make start-up tests of equipment.

13.3.9.1 If the start-up tests disclose any equipment furnished under this Contract which does not comply with the requirements of the Contract Documents, the Contractor shall, prior to demonstration tests, make all changes, adjustments and replacements required. The furnishing Contractor shall assist in the start-up tests as applicable.

**13.4 TESTING AND INSPECTIONS SPECIFIC RESPONSIBILITIES**

13.4.1 The independent firm will perform tests, inspections and other services specified in individual specification sections and as may be required by Owner.

13.4.1.1 Laboratory: Authorized to operate at Project location.

13.4.1.2 Laboratory Staff: Maintain full time specialist on staff to review services.

13.4.1.3 Testing Equipment: Calibrated at reasonable intervals with devices of accuracy traceable to National Bureau of Standards or accepted values of natural physical constants.

13.4.2 Testing, inspections and source quality control may occur on or off project site. Perform off-site testing as required by Architect/Engineer or Owner.

13.4.3 Reports will be submitted by independent firm to Architect/Engineer, Contractor, and authority having jurisdiction, in duplicate, indicating observations and results of tests and indicating compliance or non-compliance with Contract Documents. Submit final report indicating correction of Work previously reported as non-compliant.

13.4.4 Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.

13.4.4.1 Notify Owner, Architect/Engineer, and independent firm [24] hours prior to expected time for operations requiring services.

13.4.4.2 Make arrangements with independent firm and pay for additional samples and tests required for Contractor's use.

13.4.5 Testing and employment of testing agency or laboratory shall not relieve Contractor of obligation to perform Work in accordance with requirements of Contract Documents.

13.4.6 Re-testing or re-inspection required because of non-conformance to specified requirements shall be performed by same independent firm on instructions by Architect/Engineer. Payment for re-testing or re-inspection will be charged to Contractor by deducting testing charges from Contract Sum/Price.

**13.4.7 Testing Agency Responsibilities:**

13.4.7.1 Test samples of mixes submitted by Contractor.

13.4.7.2 Provide qualified personnel at site.

13.4.7.3 Cooperate with Owner, Architect/Engineer and Contractor in performance of services.

13.4.7.4 Perform specified sampling and testing of products in accordance with specified standards.

13.4.7.5 Ascertain compliance of materials and mixes with requirements of Contract Documents.

13.4.7.6 Promptly notify Owner, Architect/Engineer and Contractor of observed irregularities or non-conformance of Work or products.

13.4.7.7 Perform additional tests required by Architect/Engineer.

**13.4.8 Testing Agency Reports**

After each test, promptly submit five (5) copies of report to Architect/Engineer, Contractor, and authority having jurisdiction. When requested by Architect/Engineer, provide interpretation of test results. Include the following:

13.4.8.1 Date issued.

13.4.8.2 Project title and number.

13.4.8.3 Name of inspector.

13.4.8.4 Date and time of sampling or inspection.

13.4.8.5 Identification of product and specifications section.

13.4.8.6 Location in Project.

13.4.8.7 Type of inspection or test.

13.4.8.8 Date of test.

13.4.8.9 Results of tests.





#### 13.4.8.10 Conformance with Contract Documents

#### 13.4.9 Limits on Testing Authority:

13.4.9.1 Agency or laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.

13.4.9.2 Agency or laboratory may not approve or accept any portion of the Work.

13.4.9.3 Agency or laboratory may not assume duties of Contractor.

13.4.9.4 Agency or laboratory has no authority to stop the Work.

#### 13.5 MANUFACTURERS' FIELD SERVICES

13.5.1 When specified in individual specification sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, as applicable, and to initiate instructions when necessary.

13.5.2 Submit qualifications of observer to Architect/Engineer [30] days in advance of required observations.

13.5.3 Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

#### 13.6. UNCOVERING WORK:

13.6.1. If any WORK is covered contrary to the request of EOR, it must, if requested by EOR, be uncovered for EOR'S observation and replaced, at CONTRACTOR'S expense.

13.6.2. If EOR considers it necessary or advisable that covered WORK be observed by EOR or inspected or tested by others, CONTRACTOR, at EOR'S request shall uncover, expose or otherwise make available for observation, inspection or testing as EOR may require, that portion of the WORK in question, furnishing all necessary labor, material and equipment. If it is found that such WORK is *defective*, CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals), and the VILLAGE shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in Article 11. If, however, such WORK is not found to be *defective*, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and if the parties are unable to agree as to the amount or extent thereof. CONTRACTOR may make a claim therefor as provided in Article 11 Change of Contract Price and Article 12, Change of Contract Time.

#### 13.7 VILLAGE MAY STOP THE WORK:

13.7.1 If the WORK is *defective*, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the WORK in such a way that the completed WORK shall conform to the Contract Documents, the VILLAGE may order CONTRACTOR to stop the WORK, or any portion thereof, until the cause for such order has been eliminated; however, this right of the VILLAGE to stop the WORK shall not give rise to any duty on the part of the VILLAGE to exercise this right for the benefit of CONTRACTOR or any other party.

#### 13.8 CORRECTION OR REMOVAL OF DEFECTIVE WORK:

13.8.1 If required by EOR, CONTRACTOR shall promptly, as

directed, either correct all *defective* WORK, whether or not fabricated, installed or completed, or, if the WORK has been rejected by EOR, remove it from the site and replace it with non-*defective* WORK. CONTRACTOR shall bear all direct, indirect, and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

13.8.2 If the Contractor refuses to comply, the VILLAGE has the right to do either (or more) of the following:

13.8.3 The VILLAGE has the right to correct any work so performed by the CONTRACTOR and deduct the expenses for doing so from the final payment due the CONTRACTOR, or

13.8.4 The VILLAGE shall hold back final payment due CONTRACTOR until such time as the work is completed to the satisfaction of the VILLAGE'S PROJECT MANAGER and in compliance with the VILLAGE's specifications. The VILLAGE'S PROJECT MANAGER shall have the sole discretion to determine if the work is satisfactory and in compliance with specifications.

13.8.5 The remedies contained herein are not exclusive and the OWNER reserves the right to pursue any and all other remedies it deems applicable.

#### 13.9 ONE-YEAR CORRECTION PERIOD:

13.9.1 If within one year after the date of Acceptance of WORK or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any WORK is found to be *defective*, CONTRACTOR shall promptly, without cost to the VILLAGE and in accordance with the VILLAGE'S written instructions, either correct such *defective* WORK, or, if it has been rejected by the VILLAGE, remove it from the site and replace it with non-*defective* WORK.

13.9.2 If CONTRACTOR does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the VILLAGE may have the *defective* WORK corrected or the rejected WORK removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) shall be paid by CONTRACTOR.

13.9.3 In special circumstances where a particular item of equipment is placed in continuous service before Final Acceptance of all the WORK, the correction period for that item may start to run from an earlier date if so, provided in the Specifications or by Written Amendment.

13.9.4 Nothing herein shall be deemed a waiver of the statute of limitations as provided in Florida Law.

13.9.5 Where *defective* WORK (and damage to other WORK resulting therefrom) has been corrected, removed or replaced under this paragraph 13.7., the correction period hereunder with respect to such WORK shall be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

#### 13.10 ACCEPTANCE OF DEFFECTIVE WORK:

13.10.1 If, instead of requiring correction or removal and replacement of *defective* WORK, VILLAGE (and, prior to EOR's recommendation of final payment, also EOR) prefers to accept it, VILLAGE may do so. CONTRACTOR shall pay all claims, costs, losses and damages attributable to VILLAGE'S evaluation of and determination to accept such *defective* WORK (such costs to be approved by EOR as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals).



13.10.2 If any such acceptance occurs prior to CONSULTANT'S recommendation of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents with respect to the WORK; and the VILLAGE shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, the VILLAGE may make a claim therefor as provided in Article 11, Change of Contract Price. If the acceptance occurs after such recommendation, CONTRACTOR shall pay an appropriate amount to the VILLAGE.

13.11 VILLAGE MAY CORRECT DEFECTIVE WORK:

13.11.1 If CONTRACTOR fails within thirty days (30) after written notice of EOR to proceed to correct and to correct *defective* WORK or to remove and replace rejected WORK as required by CONSULTANT in accordance with paragraph 13.7.1, or if CONTRACTOR fails to perform the WORK in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, the VILLAGE may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

13.11.2 In exercising the rights and remedies under this paragraph the VILLAGE shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the VILLAGE 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, take possession of CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and incorporate in the WORK all materials and equipment stored at the site or for which the VILLAGE has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow the VILLAGE, the VILLAGE'S representative, agents and employees such access to the site as may be necessary to enable the VILLAGE to exercise the rights and remedies under this paragraph.

13.11.3 All direct, indirect and consequential costs of the VILLAGE in exercising such rights and remedies shall be charged against CONTRACTOR by VILLAGE and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents with respect to the WORK; and the VILLAGE shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, the VILLAGE may make a claim therefor as provided in Article 11, Change of Contract Price. Such direct, indirect and consequential costs shall include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and/or replacement of WORK of others destroyed or damaged by correction, removal or replacement of CONTRACTOR'S *defective* WORK. Contractor shall also be responsible for restoring any other sites affected by such repairs or remedial work at no cost to VILLAGE. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the WORK attributable to the exercise by the VILLAGE of the VILLAGE'S rights and remedies hereunder.

**ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION**

14.1 SCHEDULE OF VALUES

14.1.1 The schedule of values established as provided in paragraph 2.6., Finalizing Schedules, shall serve as the basis for progress payments and shall be incorporated into a form of Application for Payment acceptable to EOR.

14.2 UNIT PRICE BID SCHEDULE

14.2.1 Progress payments on account of Unit Price WORK shall be based on the number of units completed.

14.2.2 The quantities for payment under this Contract shall be determined by actual measurement of the completed items, in place, ready for service and accepted by the VILLAGE, in accordance with the applicable method of measurement therefore contained herein.

14.2.3 The Contractor shall receive and accept the compensation provided in the Bid and the Contract as full payment for furnishing all materials, labor, tools and equipment, for performing all operations necessary to complete the work under the Contract, and also in full payment for all loss or damages arising from the nature of the work, or from any discrepancy between the actual quantities of work and quantities herein estimated by the EOR, or from the action of the elements or from any unforeseen difficulties which may be encountered during the prosecution of the work until the final acceptance by the VILLAGE.

14.2.4 The prices stated in the Bid include all costs and expenses for taxes, labor, equipment, materials, commissions, transportation charges and expenses, patent fees and royalties, labor for handling materials during inspection, together with any and all other costs and expenses for performing and completing the work as shown on the Drawings and specified herein. The basis of payment for an item at the unit price shown in the bid shall be in accordance with the description of that item.

14.3 APPLICATION FOR PROGRESS PAYMENTS:

14.3.1 Unless otherwise prescribed by law, at the end of each month, the CONTRACTOR shall submit to the EOR for review, an Application for Progress Payment filled out and signed by the CONTRACTOR covering the WORK completed as of the date of the Application and accomplished by such supporting documentation as is required by the Contract Documents.

14.3.2 The Application for Progress Payment shall identify, as a subtotal, the amount of the CONTRACTOR'S Total Earnings to Date, plus the Value of Materials Stored which have not yet been incorporated in the WORK, less a deductive adjustment for materials stored which have been installed which were not previously incorporated in the WORK, but for which payment was allowed.

14.3.3 The Net Payment Due to the CONTRACTOR shall be the above-mentioned subtotal from which shall be deducted the amount of retainage specified in the Contract, and the total amount of all previous approved Applications for Progress Payment submitted by the CONTRACTOR. Retainage shall be calculated based upon the above-mentioned subtotal.

The above calculation in tabular form is as follows:

Total Earnings to Date . . . . .	\$
Value of Materials Stored . . . . .	\$
Less Value of Materials Stored for Which payment was allowed and which Have been installed . . . . .	(\$ )
Sub Total	\$
Less Retainage (based on subtotal)	(\$ )
Less total of all previous approved Applications for Progress Payment	(\$ )
NET PAYMENT DUE	\$

19.3.4 The Value of Materials Stored shall be an amount equal to the specified percent of the value of same as set forth in the Contract or Schedule of Values. Said amount shall be based upon the value of all acceptable materials and equipment not incorporated in the WORK but delivered and suitably stored at the site or at another location agreed to in writing; provided, each such individual item has a value of more than \$5,000 and shall become a permanent part of the WORK and is planned for installation within the following thirty (30) days. The Application for Progress Payment shall also be accompanied by a Bill of Sale, paid invoice, or other documentation warranting that the VILLAGE has received the materials and equipment free and clear of all liens, charges, security interests, and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the VILLAGE'S



interest therein, all of which shall be satisfactory to the VILLAGE.

14.3.5 List each Change Order executed prior to date of submission, at the end of the continuation sheets. List by Change Order Number, and description, as for an original component item of work.

14.3.6 As provided for in the "Application for Payment" form, the Contractor shall certify, for each current pay request, that all previous progress payments received from the VILLAGE, under this Contract, have been applied by the Contractor to discharge in full all obligations of the Contractor in connection with Work covered by prior Applications for Payment, and all materials and equipment incorporated into the Work are free and clear of all liens, claims, security interest and encumbrances. Contractor shall attach to each Application for Payment like affidavits by all subcontractors.

#### 14.4 CONTRACTOR'S WARRANTY OF TITLE:

14.4.1 The CONTRACTOR warrants and guarantees that title to all Work and equipment covered by an Application for Payment, whether incorporated in the Project or not, shall have passed to the VILLAGE prior to the making of the Application for Payment, free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens"); and that no work or equipment covered by an Application for Payment shall have been acquired by the CONTRACTOR or by any other person performing the Work at the site or furnishing equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.

#### 14.5 REVIEW OF APPLICATIONS FOR PROGRESS PAYMENT:

14.5.1 EOR shall, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to the VILLAGE or return the Application to CONTRACTOR indicating in writing EOR'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make necessary corrections and resubmit the Application. Thirty days after receipt of the Application for Payment by the VILLAGE with EOR'S recommendation, the amount recommended shall (subject to the provisions of the last sentence of paragraph 14.5.4) become due and when due shall be paid by the VILLAGE to CONTRACTOR.

14.5.2 EORS recommendation of any payment requested in the application for payment shall not prohibit the VILLAGE from withholding payment or prohibit the VILLAGE from paying additionally sums regarding other matters or issues between the parties.

14.5.3 EOR'S recommendation of final payment shall constitute an additional representation by EOR to the VILLAGE that the conditions precedent to CONTRACTOR'S being entitled to final payment as set forth in paragraph 14.10, Final Payment and Acceptance, have been fulfilled.

14.5.4. EOR may refuse to recommend the whole or any part of any payment if, in EOR'S opinion, it would be incorrect to make such representations to the VILLAGE. The EOR may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in EOR'S opinion to protect the VILLAGE from loss, including but not limited to:

14.5.4.1 The WORK is *defective*, or completed WORK has been damaged requiring correction or replacement.

14.5.4.2 The Contract Price has been reduced by a Written Amendment or Change Order.

14.5.4.3 The VILLAGE has been required to correct *defective*

WORK or complete WORK in accordance with paragraph 13.9, or

14.5.4.4 Of EOR'S actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1.1 through 15.2.1.9 inclusive (Village May Terminate).

14.5.5 The VILLAGE may refuse to make payment of the full amount recommended by the EOR because claims have been made against the VILLAGE on account of CONTRACTOR'S performance or furnishing of the WORK, or there are other items entitling the VILLAGE to credit against the amount recommended, but the VILLAGE must give CONTRACTOR written notice (with a copy to EOR) stating the reasons for such action.

14.5.6 The Work for which payment is requested cannot be verified,

14.5.7 Claims or Liens have been filed or there is reasonable evidence indicating the probable filing thereof,

14.5.8 Of unsatisfactory prosecution of the Work, including failure to clean up as required.

14.5.9 Of persistent failure to cooperate with other Contractors on the Project and persistent failure to carry out the Work in accordance with the Contract Documents,

14.5.10 Of liquidated damages payable by the CONTRACTOR, or

14.5.11 Of any other violation of, or failure to comply with, the provisions of the Contract Documents

#### 14.6 SUBSTANTIAL COMPLETION:

14.6.1 When the CONTRACTOR considers the entire WORK ready for its intended use, the CONTRACTOR shall notify the VILLAGE and the EOR in writing that the WORK is substantially complete and request that the EOR prepare a Certificate of Substantial Completion

14.6.2 For construction projects having an estimated cost of less than \$10 million, the VILLAGE, the EOR and the CONTRACTOR shall make an inspection of the WORK within thirty (30) calendar days after the notice from the CONTRACTOR that the work is substantially complete to determine the status of completion.

14.6.3 For construction projects having an estimated cost of more than \$10 million, the VILLAGE, the EOR and the CONTRACTOR shall make an inspection of the WORK within thirty (30) calendar days unless otherwise extended by contract not to exceed sixty (60) calendar days after notice from the CONTRACTOR that the work is substantially complete to determine the status of completion. If the EOR does not consider the WORK substantially complete, the EOR shall notify the CONTRACTOR in writing giving the reasons, therefore. If the EOR considers the WORK to be substantially complete, the EOR shall prepare and deliver to the VILLAGE for its execution and recordation the Certificate of Substantial Completion signed by the EOR and CONTRACTOR, which shall fix the Date of Substantial Completion.

14.6.4 The VILLAGE shall have the right to exclude CONTRACTOR from the WORK after the date of Substantial Completion, but the VILLAGE shall allow CONTRACTOR reasonable access to complete or correct items on the "punch list".

#### 14.7 PARTIAL UTILIZATION:

14.7.1 The VILLAGE shall have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agent or employees of the VILLAGE.

14.7.2 Prior to Substantial Completion, the VILLAGE, with the approval of the EOR and with the concurrence of the CONTRACTOR,





may use any completed or substantially completed portion of the Work. Such use shall not constitute an acceptance of such portions of the Work.

14.7.3 Use by the VILLAGE of any finished part of the WORK, which has specifically been identified in the Contract Documents, or which the VILLAGE, EOR and CONTRACTOR agree constitutes a separately functioning and useable part of the WORK that can be used by the VILLAGE without significant interference with CONTRACTOR'S performance of the remainder of the WORK, may be accomplished prior to Substantial Completion of all WORK subject to the following:

14.7.4 The VILLAGE at any time may request CONTRACTOR in writing to permit the VILLAGE to use any such part of the WORK which the VILLAGE believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees, CONTRACTOR shall certify to the VILLAGE and EOR that said part of the WORK is substantially complete and request CONSULTANT to issue a certificate of Substantial Completion for that part of the WORK. CONTRACTOR at any time may notify the VILLAGE and EOR in writing that CONTRACTOR considers any such part of the WORK ready for its intended use and substantially complete and request EOR to issue a certificate of Substantial Completion for that part of the WORK. Within a reasonable time after either such request, the VILLAGE, CONTRACTOR and EOR shall make an inspection of that part of WORK to determine its status of completion. If CONSULTANT does not consider that part of the WORK to be substantially complete, EOR shall notify the VILLAGE and CONTRACTOR in writing giving the reasons, therefore. If EOR considers that part of the WORK to be substantially complete, the provisions of paragraphs 14.6.1 and 14.6.2 shall 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.

14.7.5 The VILLAGE may at any time request CONTRACTOR in writing to permit the VILLAGE to take over operation of any such part of the WORK although it is not substantially complete. A copy of such request shall be sent to EOR and within a reasonable time thereafter the VILLAGE, CONTRACTOR and EOR shall make an inspection of that part of the WORK to determine its status of completion and shall prepare a list of items remaining to be completed or corrected thereon before final payment. If CONTRACTOR does not object in writing to the VILLAGE and EOR that such part of the WORK is not ready for separate operation by the VILLAGE, EOR shall finalize the list of items to be completed or corrected and shall deliver such list to the VILLAGE and CONTRACTOR together with a written recommendation as to the division of responsibilities pending final judgment between the VILLAGE and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance, warranties and guarantees for that part of the WORK which shall become binding upon the VILLAGE and CONTRACTOR at the time when the VILLAGE takes over such operation (unless they shall have otherwise agreed in writing and so informed EOR). During such operation and prior to Substantial Completion of such part of the WORK, the VILLAGE shall allow CONTRACTOR reasonable access to complete or correct items on said list and to complete other related WORK.

#### 14.8. FINAL INSPECTION:

14.8.1 Upon written notice from CONTRACTOR that the entire WORK or an agreed portion thereof is complete, EOR shall make a final inspection with the VILLAGE and CONTRACTOR and shall notify CONTRACTOR in writing of all particulars in which this inspection reveals that the WORK is incomplete, *defective*, or not in accordance with the Contract Documents. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

#### 14.9 FINAL APPLICATION FOR PAYMENT:

14.9.1 After CONTRACTOR has completed in writing all such corrections to the satisfaction of EOR and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph Section IV

14.6, Substantial Completion) and other documents--all as required by the Contract Documents, and after EOR has indicated in writing that the WORK is acceptable and has been completed in conformance with the drawings and specifications and any approved changes thereto, CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required, (ii) consent of the surety, if any, to final payment, and (iii) complete and legally effective releases or waivers (satisfactory to VILLAGE) of all Liens arising out of or filed in connection with the WORK.

#### 14.10 FINAL PAYMENT AND ACCEPTANCE:

14.10.1 Upon receipt of written notice from the Contractor that the WORK has been completed in conformity with the Drawings and Specifications and any approved changes thereto, and receipt of the Final Application for Payment, Final Receipt and Release of Lien and accompanying documentation, the VILLAGE'S EOR shall promptly examine the WORK and, making such tests as he may deem proper and using all of the care and judgment normally exercised in the examination of completed WORK by a properly qualified and experienced Professional EOR, shall satisfy himself that the CONTRACTOR'S statement appears to be correct and the CONTRACTOR'S other obligations under the Contract Documents have been fulfilled. He shall then inform the VILLAGE in writing that he has examined the WORK and that it appears, to the best of his knowledge and belief, to conform to the Contract Drawings, Specifications and any approved Change Orders, that the CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, and that he therefore recommends acceptance of the WORK for ownership and Final Payment to the CONTRACTOR. However, it is agreed by the VILLAGE and the CONTRACTOR that such statement by the VILLAGE'S EOR does not in any way relieve the CONTRACTOR from his responsibility to deliver a fully completed job in a good and workmanlike condition and does not render the EOR or the VILLAGE liable for any faulty WORK done or defective materials or equipment used by the CONTRACTOR.

14.10.2 The EOR shall then make a final estimate of the value of all WORK done and shall deduct all previous payments which have been made. The EOR shall report such estimate to the VILLAGE together with his recommendation as to the acceptance of the WORK or his findings as to any deficiencies therein. After receipt and acceptance by the VILLAGE of the properly executed Final Warranty of Title and after approval of the EOR'S estimate and recommendation to the VILLAGE, the VILLAGE shall make final payment to the CONTRACTOR of the Amount remaining after deducting all prior payments and all amounts to be kept or retained under the provisions of the Contract Documents, or as may be lawfully retained, including, but not limited to, Liquidated Damages, as applicable. Title passes and warranty begins at final acceptance.

14.10.3. All prior estimates are subject to correction in the final estimate. Thirty days after approval by the VILLAGE of the application for final payment, the amount recommended by EOR shall become due and shall be paid to Contractor.

#### 14.11 WAIVER OF CLAIMS:

14.11.1 The making and acceptance of final payment shall constitute:

14.11.1.1 A waiver of all claims by VILLAGE against CONTRACTOR, except claims arising from unsettled Liens, from *defective* WORK appearing after final inspection pursuant to paragraph 14.8, Final Inspection, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR'S continuing obligations under the Contract Documents or the Public Construction Bond and Payment Bonds; and

14.11.1.2 a waiver of all claims by CONTRACTOR against Supplementary Conditions





VILLAGE other than those previously made in writing and still unsettled.

#### 14.12 PUNCHLIST PROCEDURES:

**For Contracts over \$10,000,000.00:** Further to §218.735(7)(a)(ii) Florida Statutes, punch list procedures to render the Work complete, satisfactory and acceptable are established as follows:

14.12.1 Within twenty (20) days of Substantial Completion of the construction services purchased as defined in the Contract, Contractor shall schedule a walkthrough with VILLAGE AND EOR ("Initial Walkthrough" a/k/a "IW"). The purpose of the IW is to develop a preliminary checklist ("Checklist") of items to be performed by the Contractor, based upon observations made jointly between the Contractor, EOR and VILLAGE during the IW. The IW is to occur within twenty (20) days of Substantial Completion of the Work as defined by the Contract, again predicated upon the Contractor's timely initiation of a request for the IW. At its option, VILLAGE may conduct the IW with its EOR.

14.12.2 Contractor shall endeavor to address and complete as many items as possible noted on the Checklist either during the IW itself, or thereafter for a period of forty-five (45) days from the date of the IW.

14.12.3 No later than forty-five (45) days following the scheduled IW, Contractor shall again initiate and request a second walkthrough of the Project with VILLAGE. The purpose of this second walkthrough is to identify which items remain to be performed from the IW Checklist and to supplement that list as necessary (based, for example, upon work which may have been damaged as a result of the Contractor's performance of completion of items contained on the IW Checklist) and for the purpose of developing a joint Final Punch list.

14.12.4 The intent of this section is for VILLAGE and the Contractor to cooperate to develop a Final Punch list to be completed no later than forty-five (45) days from the date of reaching Substantial Completion of the construction services purchase as defined in the Contract.

14.12.5 In no event may the Contractor request payment of final retainage under §218.735(7)(d) Florida Statutes until the Contractor considers the Final Punch list to be 100% complete.

14.12.6 Contractor agrees to complete the Final Punch list items within sixty (60) days of the date of its issuance by VILLAGE.

14.12.7 Contractor acknowledges and agrees that no item contained on the Final Punch list shall be considered a warranty item until such time as (a) the Final Punch list is 100% complete, and (b) VILLAGE has been able to operate or utilize the affected punch list item for an additional period of fifteen (15) days.

14.12.8 Contractor acknowledges and agrees that VILLAGE may, at its option, during performance of the Work and prior to Substantial Completion, issue lists of identified non-conforming or corrective work for the Contractor to address. The intent of any such VILLAGE generated lists prior to Substantial Completion is to attempt to streamline the punch list process upon achieving Substantial Completion, and to allow for the Contractor to address needed areas of corrective work as they may be observed by VILLAGE during performance of the Work.

14.12.9 Contractor acknowledges and agrees that in calculating 150% of the amount which may be withheld by VILLAGE as to any Final Punch list item for which a good faith basis exists as to it being complete, as provided for by §218.735(7)(d) Florida Statutes, VILLAGE may include within such percentage calculation its total costs for completing such item of work, including its administrative costs as well as costs to address other services needed or areas of work which may be affected in order to achieve full completion of the Final Punch list item. Such percentage shall in no event relate to the schedule of value associated with such Work activity, but rather total costs are based upon the value (i.e., cost) of completing such Work activity based upon market conditions at the time of Final Punch list completion.

**For Contracts between \$200,000.00 and \$10,000,000.00:** Further to §218.735(7)(a)(ii) Florida Statutes, punch list procedures to render the Work complete, satisfactory and acceptable are established as follows:

14.12.10 Within five (5) days of Substantial Completion of the construction services purchased as defined in the Contract, Contractor shall schedule a walkthrough with VILLAGE ("Initial Walkthrough" a/k/a "IW"). The purpose of the IW is to develop a preliminary checklist ("Checklist") of items to be performed by the Contractor, based upon observations made jointly between the Contractor and VILLAGE during the IW. The IW is to occur within ten (10) days of Substantial Completion of the Work as defined by the Contract, again predicated upon the Contractor's timely initiation of a request for the IW. At its option, VILLAGE may conduct the IW with its Field Inspector.

14.12.11 Contractor shall endeavor to address and complete as many items as possible noted on the Checklist either during the IW itself, or thereafter for a period of fifteen (15) days from the date of the IW.

14.12.12 No later than fifteen (15) days following the scheduled IW, Contractor shall again initiate and request a second walkthrough of the Project with VILLAGE. The purpose of this second walkthrough is to identify which items remain to be performed from the IW Checklist and to supplement that list as necessary (based, for example, upon work which may have been damaged as a result of the Contractor's performance of completion of items contained on the IW Checklist) and for the purpose of developing a joint Final Punch list.

14.12.13 The intent of this section is for VILLAGE and the Contractor to cooperate to develop a Final Punch list to be completed no later than thirty (30) days from the date of reaching Substantial Completion of the construction services purchase as defined in the Contract.

14.12.14 In no event may the Contractor request payment of final retainage under §218.735(7)(d) Florida Statutes until the Contractor considers the Final Punch list to be 100% complete.

14.12.15 Contractor agrees to complete the Final Punch list items within forty-five (45) days of the date of its issuance by VILLAGE.

14.12.16 Contractor acknowledges and agrees that no item contained on the Final Punch list shall be considered a warranty item until such time as (a) the Final Punch list is 100% complete, and (b) VILLAGE has been able to operate or utilize the affected punch list item for an additional period of fifteen (15) days.

14.12.17 Contractor acknowledges and agrees that VILLAGE may, at its option, during performance of the Work and prior to Substantial Completion, issue lists of identified non-conforming or corrective work for the Contractor to address. The intent of any such VILLAGE generated lists prior to Substantial Completion is to attempt to streamline the punch list process upon achieving Substantial Completion, and to allow for the Contractor to address needed areas of corrective work as they may be observed by VILLAGE during performance of the Work.

14.12.18 Contractor acknowledges and agrees that in calculating 150% of the amount which may be withheld by VILLAGE as to any Final Punch list item for which a good faith basis exists as to it being complete, as provided for by §218.735(7)(d) Florida Statutes, VILLAGE may include within such percentage calculation its total costs for completing such item of work, including its administrative costs as well as costs to address other services needed or areas of work which may be affected in order to achieve full completion of the Final Punch list item. Such percentage shall in no event relate to the schedule of value associated with such Work activity, but rather total costs are based upon the value (i.e., cost) of completing such Work activity based upon market conditions at the time of Final Punch list completion.

#### 14.13 REDUCTION OF RETAINAGE PROCEDURES:

14.13.1 Contractor may request a reduction of retainage as provided for by §218.735(7)(8) Florida Statutes The term "Fifty Percent Supplementary Conditions



Completion" as contained in §218.735(7)(8)(b) Florida Statutes shall be defined as follows, in lieu of any other definition:

14.13.2 "Fifty Percent Completion" of the Work is defined as that point in time where 50% of the overall value of Work items incorporated and which shall remain in place subsequent to final completion of the Work have been completed, based upon the schedule of values contained in the Contract. As such, and by way of example, the value of Contractors mobilization, general conditions, supervision or like items which do not involve permanent incorporation of Work do not apply to the determination of "Fifty Percent Completion" of the Work for purposes of establishing entitlement to a reduction of retainage.

14.13.3 With regard to any contract for construction services, a local governmental entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage until 50-percent completion of such services.

14.13.4 After 50-percent completion of the construction services purchased pursuant to the contract, the local governmental entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this subsection, the term "50-percent completion" has the meaning set forth in the contract between the local governmental entity and the contractor or, if not defined in the contract, the point at which the local governmental entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract. However, notwithstanding this subsection, a municipality having a population of 25,000 or fewer, or a county having a population of 100,000 or fewer, may withhold retainage in an amount not exceeding 10 percent of each progress payment made to the contractor until final completion and acceptance of the project by the local governmental entity.

14.13.5 After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the local governmental entity.

14.13.6 After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the local governmental entity a payment request for up to one-half of the retainage held by the local governmental entity. The local governmental entity shall promptly make payment to the contractor, unless the local governmental entity has grounds, pursuant to paragraph (f), for withholding the payment of retainage. If the local governmental entity makes payment of retainage to the contractor under this paragraph which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

14.13.7 This section does not prohibit a local governmental entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the local governmental entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a local governmental entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the

contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

14.13.8 This section does not require the local governmental entity to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to s. [255.05](#), or otherwise the subject of a claim or demand by the local governmental entity or contractor.

14.13.9 The time limitations set forth in this section for payment of payment requests apply to any payment request for retainage made pursuant to this section.

**14.13.10 Paragraphs 14.13.3 through 14.13.6 do not apply to construction services purchased by a local governmental entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act.**

**14.13.11 This subsection does not apply to any construction services purchased by a local governmental entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.**

14.13.12 All payments due under this section and not made within the time periods specified by this section shall bear interest at the rate of 1 percent per month, or the rate specified by contract, whichever is greater.

## **ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION**

### **15.1 VILLAGE MAY SUSPEND/STOP WORK:**

15.1.1 The VILLAGE may, at any time and without cause, suspend the WORK or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and EOR which shall fix the date on which WORK shall be resumed. CONTRACTOR shall resume the WORK on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefore as provided in Articles 11 (Change of Contract Price) and 12, (Change of Contract Time).

15.1.2 THE VILLAGE MAY STOP WORK: The VILLAGE REPRESENTATIVE may stop the Work or any portion thereof when it has been determined that the Contractor is not complying with the Drawings or Specifications or the intent thereof. The Stop Work order may be verbal, and the CONTRACTOR shall cease work immediately except for leaving the Work area in a safe and acceptable condition. A verbal Stop Work order shall be confirmed in writing. The CONTRACTOR shall not be allowed an increase in the contract price or an extension of the Contract time during the Stop Work period. A Start Work order may be verbal and shall be confirmed in writing.

### **15.2 VILLAGE MAY TERMINATE FOR CAUSE:**

15.2.1 Upon the occurrence of any one or more of the following events:

15.2.1.1 If CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such timing relating to the bankruptcy or insolvency;

15.2.1.2 If a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency;



15.2.1.3 If CONTRACTOR makes a general assignment for the benefit of creditors;

15.2.1.4 If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR'S creditors;

15.2.1.5. If CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

15.2.1.6 If CONTRACTOR fails 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 established under paragraph 2.6 as revised from time to time).

15.2.1.7 If CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;

15.2.1.8 If CONTRACTOR disregards the authority of EOR;  
or

15.2.1.9 If CONTRACTOR otherwise violates any provisions of the Contract Documents;

15.2.1.10 In the event of termination, the VILLAGE may take possession of the premises and all materials, tools, and appliances, thereon and finish the Work by whatever method it may deem expedient. In such cases, the Contractor shall only be entitled to receive payment for Work satisfactorily completed prior to the termination date, subject to any setoffs due the VILLAGE in completing the Project and for reimbursement of damages incurred. The VILLAGE may take possession of and use any materials, plant, tools, equipment, and property of any kind furnished by Contractor to complete the Work. In such case CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the expense incurred by the VILLAGE to finish the Work (including additional managerial and administrative services, plus the VILLAGE'S direct, indirect and consequential losses), exceeds the unpaid balance on this Contract, the Contractor or the Surety shall pay the difference to the VILLAGE promptly on demand. The expense incurred by the VILLAGE as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Project Manager. The Contractor shall be responsible for both liquidated damages attributable to delay and for excess completion costs. The liability of the Contractor and its surety or sureties for such damages and costs is joint and several. The obligations of the Contractor and his surety with respect to the warranty and maintenance shall remain in full force and effect for the portion of the Work completed by the Contractor and shall not expire until the expiration of the prescribed time period measured from the final acceptance of the project in its entirety. These clauses shall survive the termination of this Contract. If the VILLAGE makes a determination pursuant to this Contract to hold the Contractor in default and terminate the Contract for cause and it is subsequently determined that any such determination was improper, unwarranted, or wrongful, then any such termination shall be deemed for all purposes as a termination without cause as described below. The Contractor agrees that it shall be entitled to no damages, allowances or expenses of any kind other than as provided in this Agreement in connection with such termination, and does expressly waive, in the event of termination, any and all claims for consequential damages, loss of bonding capability, destruction of business, unabsorbed home office overhead, lost profit and the like.

15.2.2 Where CONTRACTOR'S services have been so terminated by the VILLAGE, the termination shall not affect any rights or remedies of the VILLAGE against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by the VILLAGE shall not release CONTRACTOR from liability.

#### 15.3 VILLAGE MAY TERMINATE WITHOUT CAUSE:

15.3.1 The VILLAGE may terminate this Contract without cause by giving thirty (30) days prior written notice to the Contractor, and in such event, the VILLAGE shall pay the CONTRACTOR for that portion of the Contract Sum, less the aggregate of previous payments, allocable to the WORK completed as of the Date of Termination, plus reasonable termination expenses. The VILLAGE also shall reimburse the CONTRACTOR for all costs necessarily incurred for organizing and carrying out the stoppage of the WORK and paid directly by the CONTRACTOR, not including overhead, general expenses or profit. The VILLAGE shall not be responsible to reimburse the CONTRACTOR for any continuing contractual commitments to subcontractors or material men or for penalties or damages for canceling such contractual commitments, (with the exception that the VILLAGE shall reimburse the CONTRACTOR for major materials or equipment purchased before termination if the CONTRACTOR can show proof of said purchases prior to notice of termination) inasmuch as the CONTRACTOR shall make all subcontracts and other commitments subject to this provision. In the event of termination by the VILLAGE, the VILLAGE may require the CONTRACTOR promptly to assign to it all or some subcontracts, construction, plant, materials, tools, equipment, appliances, rental agreements, and other commitments which the VILLAGE, in its sole discretion, chooses to take by assignment, and in such event the CONTRACTOR shall promptly execute and deliver to the VILLAGE written assignments of the same.

#### 15.4 REMOVAL OF EQUIPMENT DUE TO TERMINATION:

15.4.1 Removal of Equipment: In the case of termination of this Contract before completion, for any cause whatever, the CONTRACTOR, if notified to do so by the VILLAGE'S PROJECT MANAGER, shall promptly remove any part or all of this equipment and supplies from the property of the VILLAGE. Should the CONTRACTOR not remove such equipment and supplies, the VILLAGE shall have the right to remove them at the expense of the CONTRACTOR. Equipment and supplies shall not be construed to include such items for which the CONTRACTOR has been paid in whole or in part.

#### 15.5 CONTRACTOR MAY STOP WORK OR TERMINATE:

15.5.1 If, through no act or fault of CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the VILLAGE or under an order of court or other public authority, or EOR fails to act on any Application for Payment within thirty (30) days after it is submitted, or the VILLAGE fails for sixty (60) days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven (7) days written notice to the VILLAGE and EOR, terminate the Contract and the VILLAGE shall pay the CONTRACTOR for that portion of the Contract Sum, less the aggregate of previous payments, allocable to the WORK completed as of the Date of Termination plus reasonable termination expenses. The VILLAGE shall not be responsible to reimburse the CONTRACTOR for any continuing contractual commitments for canceling such contractual commitments inasmuch as the CONTRACTOR shall make all subcontracts and other commitments subject to this provision. The VILLAGE may require the CONTRACTOR promptly to assign to it all or some subcontracts, construction, plant, materials, tools, equipment, appliances, rental agreements, and any other commitments which the VILLAGE, in its sole discretion, chooses to take by assignment, and in such event the CONTRACTOR shall promptly execute and deliver to the VILLAGE written assignments of the same. In addition, and in lieu of terminating the Contract, if EOR has failed to act on an Application for Payment or the VILLAGE has failed to make any payment as aforesaid, CONTRACTOR may upon seven days written notice to the VILLAGE and EOR stop the WORK until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of the obligations under paragraph 6.24, continuing the Work, to carry on the WORK in accordance with the progress schedule and without delay during disputes and disagreements with the VILLAGE.





**ARTICLE 16 – DISPUTE RESOLUTION**

**16.1 GOOD FAITH EFFORT:**

16.1.1 Any disputes relating to interpretation of the terms of this Contract or a question of fact or arising under this Contract shall be resolved through good faith efforts upon the part of the CONTRACTOR and the VILLAGE or its Project Manager. At all times, the CONTRACTOR shall carry on the work and maintain its progress schedule in accordance with the requirements of the Contract and the determination of the VILLAGE or its representatives, pending a final resolution of the dispute, including, if necessary, any determination by a Court of competent jurisdiction. Any dispute which is not resolved by mutual agreement of CONTRACTOR and VILLAGE Project Manager shall be decided by the VILLAGE Manager or designee who shall reduce the decision to writing. The decision of the VILLAGE shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, and so grossly erroneous as to necessarily imply bad faith, or not be supported by substantial evidence.

**16.2 MEDIATION:**

16.2.1 Prior to initiating any litigation concerning this Contract, the VILLAGE reserves the right to submit the disputed issue or issues to a mediator for non-binding mediation. The parties shall agree on a mediator chosen from a list of certified mediators available from the Clerk of Court for Miami-Dade County. The fee of the mediator shall be shared equally by the parties. To the extent allowed by law, the mediation process shall be confidential and the results of the mediation or any testimony or argument introduced at the mediation shall not be admissible as evidence in any subsequent proceeding concerning the disputed issue.

**ARTICLE 17 – MISCELLANEOUS**

**17.1 GIVING NOTICE:**

17.1.1 All notices, requests, consents, and other communications required or permitted under this Contract shall be in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated, electronically communicated, or mailed by registered or certified mail (postage prepaid) return receipt requested, addressed to:

<u>As To VILLAGE:</u>	<u>With A Copy To:</u>	<u>CONTRACTOR:</u>
Director of Public Works North Bay Village 1666 Kennedy Causeway, Suite 300 North Bay Village, Fl., 33141	Purchasing/CFO North Bay Village 1666 Kennedy Causeway, Suite 300 North Bay Village, Fl., 33141	Individual or to a member of the firm or to an officer of the corporation for whom it is intended

**17.2 COMPUTATION OF TIME:**

17.2.1 When any period of time is referred to in the Contract Documents by days, it shall be computed to 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 shall be omitted from the computation.

**17.3 NOTICE OF CLAIM:**

17.3.1 Should VILLAGE or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 17.3 shall not be construed as a substitute for or a waiver of the provisions of any

applicable statute of limitations or repose.

**17.4 CUMULATIVE REMEDIES:**

17.4.1 The duties and obligations imposed by these General Terms & Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by Sections 6, Contractor's Responsibilities, Section 13, Test and Inspections, Correction, Removal or Acceptance of Defective Work, Section 14, Payments to Contractor and Completion, and Section 15, Suspension of work and Termination and all of the rights and remedies available to the VILLAGE and EOR thereunder, 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 Documents, and the provisions of this paragraph shall 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. All representations warranties and guarantees made in the Contract Documents shall survive final payment and termination or completion of the Contract.

**17.5 ACCIDENT AND PREVENTION:**

17.5.1 The safety provisions of applicable laws and building and construction codes shall be observed, and the Contractor shall take or cause to be taken such additional safety and health measures as the Local Public Agency involved may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction" as published by the Associated General Contractors of America, Inc. to the extent that such provisions are not in conflict with applicable laws. The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from WORK, arising out of and in the course of employment on WORK under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

**17.6 FLORIDA PRODUCTS AND LABOR:**

17.6.1 The CONTRACTOR'S attention is called to Section 255.04, Florida Statutes, which requires that on public building contracts, Florida products and labor shall be used wherever price and quality are equal.

**17.6.2 255.099 Preference to State Residents. —**

(1) Each contract for construction that **is funded by state funds** must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work on the project if state residents have substantially equal qualifications to those of nonresidents. A contract for construction funded by local funds may contain such a provision.

(a) As used in this section, the term "substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.

(b) A contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.

(2) No contract shall be let to any person refusing to execute an agreement containing the provisions required by this section. However, in work involving the expenditure of federal aid funds, this section may not be enforced in such a manner as to conflict with or be contrary to federal law prescribing a labor preference to honorably discharged soldiers, sailors, or marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States.





### 17.6.3 255.0991 Contracts for Construction Services; Prohibited Local Government Preferences. —

- (1) For purposes of this section, the term:
- (a) "Competitive solicitation" has the same meaning as in s. 255.248.
- (b) "State-appropriated funds" means all funds appropriated in the General Appropriations Act, excluding federal funds.
- (2) For a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation, a state college, county, municipality, school board, or other political subdivision of the state **may not use a local ordinance** or regulation that provides a preference based upon:
- (a) The contractor's maintaining an office or place of business within a particular local jurisdiction;
- (b) The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or
- (c) The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.
- (3) For any competitive solicitation that meets the criteria in subsection (2), a state college, county, municipality, school board, or other political subdivision of the state shall disclose in the solicitation document that any applicable local ordinance or regulation does not include any preference that is prohibited by subsection (2).
- (4) Except as provided in subsection (2), this section does not prevent a state college, county, municipality, school board, or other political subdivision of the state from awarding a contract to a contractor in accordance with applicable state laws or local ordinances or regulations.

### 17.6.4 255.20 Specification of State-Produced Lumber.

- (3)(a) All county officials, boards of county commissioners, school boards, city councils, city commissioners, and all other public officers of state boards or commissions that are charged with the letting of contracts for public work, for the construction of public bridges, buildings, and other structures must specify in the contract lumber, timber, and other forest products produced and manufactured in this state, if wood is a component of the public work, and if such products are available and their price, fitness, and quality are equal.
- (b) This subsection does not apply:
1. To plywood specified for monolithic concrete forms.
  2. If the structural or service requirements for timber for a particular job cannot be supplied by native species.
  3. If the construction is financed in whole or in part from federal funds with the requirement that there be no restrictions as to species or place of manufacture.

### 17.7 EMPLOYEES:

17.7.1 All labor described in these specifications or indicated on the Drawings and the WORK specified or indicated shall be executed in a thoroughly substantial and workmanlike manner by mechanics skilled in the applicable trades.

17.7.2 Any person employed on the WORK who fails, refuses or neglects to obey the instructions of the CONTRACTOR in anything relating to this WORK or who appears to the VILLAGE to be disorderly, intoxicated, insubordinate, or incompetent, shall upon the order of the VILLAGE, be at once discharged and not again employed in any part of the WORK. Any interference with, or abuse or threatening conduct toward the VILLAGE, EOR or their inspectors by the CONTRACTOR or his employees or agents, shall be authority for the VILLAGE to annul the Contract and re-let the WORK. No intoxicating substance shall be

allowed on the WORK site.

### 17.8 NON-DISCRIMINATION:

17.8.1 The CONTRACTOR shall not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, handicapped status, disabilities, or national origin. The CONTRACTOR shall endeavor to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, color, religion, sex, age, handicapped status, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. These provisions apply to all subcontractors, and it is the responsibility of the subcontractor compliance.

### 17.9 DRUG-FREE WORKPLACE:

17.9.1 The VILLAGE requires all prospective contractors to maintain a drug free workplace and have their Drug Free Workplace policy posted in their offices and available for inspection by the VILLAGE.

### 17.10 PUBLIC ENTITY CRIMES:

17.10.1 Pursuant to F.S. 287.133, as amended: 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 on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or EOR under a Contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in F.S. 287.017 for CATEGORY TWO or higher for a period of 36 months from the date of being placed on the convicted vendor list.

The VILLAGE shall not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in U.S.C. Section 1324a(e) [Section 274A9e) of the Immigration and Nationality Act (INA@)]. The VILLAGE shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such a violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the VILLAGE.

### 17.11 ASSIGNMENT:

17.11.1 This Contract, nor any monies due hereunder, or any part thereof, shall not be assigned, or transferred, by CONTRACTOR, nor shall the VILLAGE be liable to any assignee or transferee, without the written consent of the VILLAGE, to the assignment, or transfer. The VILLAGE shall not release or discharge CONTRACTOR from any obligation hereunder. The VILLAGE shall not approve an assignment or transfer unless the Surety on the Contract Performance and Payment Bonds has informed the VILLAGE in writing that it consents to the assignment or transfer.

### 17.12 VENUE:

17.12.1 This Contract shall be interpreted as a whole unit and section headings are for convenience only. All interpretations shall be governed by the laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this Contract, venue shall be exclusively in Miami-Dade County, Florida, for claims under state law and the Southern District of Florida for any claims which are justiciable in Federal court.



#### 17.13 FUNDING OUT:

17.13.1 Florida Statutes prohibit the Village or its designee from creating obligations on anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the contracts. It is necessary that fiscal funding out provisions be included in all bids in which the terms are for periods of longer than one year. Therefore, the following funding out provisions are an integral part of this Invitation to Bid and must be agreed to by all CONTRACTORS:

17.13.2 The Village or its designee may, during the contract period, terminate or discontinue the items covered in this bid for lack of appropriated funds upon the same terms and conditions.

17.13.3 Such prior written notice shall state that the lack of appropriated funds is the reason for termination, and

17.13.4 Village agrees not to replace the equipment or services being terminated with equipment and services with functions similar to those performed by the equipment covered in this bid from another awarded CONTRACTOR in the succeeding funding period.

#### 17.14 VILLAGE PURCHASING CARD:

17.14.1 The Village has authorized the use of a Purchasing Card to expedite small dollar purchases CONTRACTOR may be presented these credit cards by authorized Village personnel for the above-mentioned purchases.

17.14.2 Additionally, the Village reserves the right to use the Purchasing Card as an optional method to pay invoices for the project WORK submitted by the CONTRACTOR.

#### 17.15 DEBARMENT:

17.15.1 The Village shall have the authority to debar a person / corporation for cause for consideration or award of future contracts. The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

#### 17.16 REQUIREMENTS FOR PERSONNEL ENTERING VILLAGE PROPERTY:

17.16.1 Possession of firearms shall not be tolerated in or near Village property. Nor shall violations of Federal or State Laws and any applicable Village policy regarding Drug Free Workplace be tolerated. Violators shall be subject to immediate termination.

17.16.2 "Firearm" means any weapon (including a starter gun or antique firearm) which shall, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.

17.16.3 No person who has a firearm in their vehicle may park their vehicle on Village property. Furthermore, no person may possess or bring a firearm on Village property.

17.16.4 If any employee of an independent awarded CONTRACTOR or subcontractor is found to have brought a firearm on

Village property, said employee must be terminated from the Village project by the independent awarded CONTRACTOR or subcontractor. If the subcontractor fails to terminate said employee, the subcontractor's agreement with the independent awarded CONTRACTOR for the Village project shall be terminated. If the independent awarded CONTRACTOR fails to terminate said employee or fails to terminate the agreement with the subcontractor, who fails to terminate said employee, the independent awarded CONTRACTOR's agreement with the Village shall be terminated.

#### 17.17 PRODUCT RECALL:

17.17.1 In the event the awarded CONTRACTOR receives notice that a product delivered by the awarded CONTRACTOR to the Village has been recalled, seized or embargoed, and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption by a packer, processor, subcontractor, retailer, manufacturer, or by any State or Federal regulatory agency, the awarded CONTRACTOR shall notify the Village's Purchasing Department within two business days of receiving such notice. The Village's acceptance or failure to reject the affected product as non-conforming shall not in any way impact, negate, or diminish the awarded CONTRACTOR's duty to notify the Village's Purchasing Department that the affected product has been recalled, seized or embargoed, and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption. The form and content of such notice to the Village shall include the name and description of the affected product; the approximate date the affected product was delivered to the Village; the bid number; and relevant information relating to the proper handling of the affected product and/or proper disposition of the affected product by the Village, if necessary to protect the health, welfare, and safety of Village employees; and any health hazards known to the awarded CONTRACTOR which may be caused or created by the affected product.

17.17.2 The awarded CONTRACTOR shall, at the option of the Purchasing Department, either reimburse the purchase price or provide an equivalent replacement product at no additional cost to the Village. Unless it was necessary for the Village to dispose of the affected product, the awarded CONTRACTOR shall be responsible for removal and/or replacement of the affected product within the time specified by the Village, without causing significant inconvenience to the Village.

17.17.3 At the option of the Village, the awarded CONTRACTOR may be required to reimburse storage, disposal and/or handling fees to be calculated from time of delivery and acceptance to actual removal or disposal. The awarded CONTRACTOR shall bear all costs associated with the removal and proper disposal of the affected product. The failure to reimburse the purchase price and storage and/or handling fees or to remove and/or replace the affected product with an equivalent replacement within the time specified by the Village, without causing significant inconvenience to the Village shall be considered a default.



## SECTION V SPECIAL CONDITIONS

### 5.1. QUALIFICATIONS OF BIDDERS

This ITB shall be awarded only to a responsive and responsible Bidder, qualified to provide the work specified. The Bidder should submit the following information with their bid response package to be considered responsive in order for the Village to fully evaluate the firm's qualifications. Failure to fully submit the requested information may result in the bid response being considered non-responsive.

- A. No bid will be accepted from, nor will any contract be awarded to, any person who is in arrears to the Village, upon any debt or contract, or who has defaulted, as surety or otherwise, upon any obligation to the Village, or who is deemed irresponsible or unreliable by the Village in its sole discretion.
- B. Contractor must provide proof of at least three (3) successfully completed projects in similar scope and complexity within the past five (5) years.
- C. Contractor must provide current proof of a general contractor's license and/or copies of all applicable certificates, registrations and licenses must be submitted with the Bid and must be in the name of the Bidder shown on the Signature of Bidder Form.
- D. Contractor must provide proof that their firm is registered with the Division of Corporations for the State of Florida.
- E. Contractor shall comply with Business Tax Receipt requirements for their business location, if required. A copy of the business tax receipt or proof of exemption must be included with the submittal package.
- F. Contractor shall provide evidence of bondability/Letter of Credit from Surety within their submittal response.

### 5.2. MEETING SCHEDULE

- A. **Mandatory Pre-Bid Meeting:** There will be a **Mandatory** Pre-Bid Meeting via Zoom, **on August 1, 2023, at 10:00 A.M. EST**, with an optional Site visit directly following the Mandatory Pre-Bid Meeting at Vogel Park, 7920 West Drive, North Bay Village, FL., 33141. All prospective bidders are required to attend.
- B. **Questions Deadline:** The Purchasing Department will receive written requests for clarification and inquiries concerning the meaning or interpretation of this ITB. Questions shall be emailed to the Chief Financial Officer, Angela Atkinson, at [aatkinson@nbvillage.com](mailto:aatkinson@nbvillage.com) with reference to the ITB number in the subject for faster recognition. Only questions answered by formal written Addenda issued by the Chief Financial Officer shall be binding. Oral and other interpretations or clarifications shall be without legal effect. The Village will respond to written inquiries, if received by **no later than 4:00 P.M. EST on August 18, 2023**. The Village shall record its responses to inquiries and any supplemental instructions in the form of a written addendum. If addendums are issued, the Village shall make every attempt to issue such addendum at least seven (7) calendar days before the date fixed for receiving the bids.
- C. **Bid Opening:** Firms desiring to provide the goods and services described above shall submit one (1) complete electronic submittal, contained in one (1) file, PDF format preferred, submitted electronically through [www.DemandStar.com](http://www.DemandStar.com) containing all of the required information on the proper forms as identified in Section VIII, **no later than 2:00 P.M. EST, August 29, 2023**. Bids will be opened and read in public via Zoom teleconference. It is the sole responsibility of the Bidder to assure that bids are received no later than the specified time and date.
- D. **Preconstruction Conference:** The Village will schedule a preconstruction conference within twenty (20) business days after Notice of Award.



**5.3. BUSINESS OPERATIONS**

- A. **Hours of Operation:** Unless otherwise directed by the Public Works Director; or his designee, the successful Contractor(s) shall insure that the following schedule is adhered to and services as required must be scheduled to ensure that **all work is during normal business hours and must be between the hours of 8:00 AM and 5:00 PM.**
- B. **Working Hours:** All Work at the site shall be performed Monday through Friday from the hours of 8:00 am until 5:00 pm. No additional expenses shall be granted for work performed after hours. Contractor is not permitted to perform work on any Village observed holiday, without the written consent of the Village Project Manager. Detailed work schedule shall be determined in advance at the preconstruction meeting.
- C. **Inclement Weather Conditions:** Upon approval by the Public Works Director or designee, the Contractor may cease operations of services during inclement weather conditions.
- D. **Observed Holidays:** The Village also schedules non-workdays throughout the calendar year. The Public Works Director or designee will notify the awarded Contractor of any non-workdays that may affect the work schedule at the preconstruction meeting.

New Year's Day  
 President's Day  
 Independence Day  
 Veteran's Day

Martin Luther King Day  
 Memorial Day  
 Labor Day  
 Thanksgiving Day & Day After

**5.4. SUBCONTRACTING**

If a Contractor subcontracts any portion of a contract for any reason, he must include, in writing the **name and address of the Subcontractor and percentage being used.** Include the name of the person to be contacted, telephone number and extent of work to be performed. This information is to be submitted with bid response. If Contractor should need to change subcontractor information, changes are subject to the approval by the Village. The Village reserves the right to reject a bid of any bidder if the bid names a subcontractor who has previously failed in the proper performance of an award or failed to deliver on time contract of a similar nature, or who is not in a position to perform properly under this award.

**5.5. AWARD METHOD**

The Village reserves the right to award on an all or none basis or to make a multiple award to the lowest and best responsive responsible bidder, if it is in the best interest of the Village, and as follows:

The Village intends to award this bid to a Primary bidder. Award of the primary will be determined in order of responsiveness, delivery, and service proposed, along with bidder's qualifications, adequate organization, and personnel to ensure prompt and efficient performance of work to the Village. After the bid has been awarded, the Primary bidder will be used in every instance of ordering services if their firm is capable of delivering the services in question within the time specified in this bid. If the Primary bidder is not able to deliver the services in question within the specified time, the Village reserves the right to contact the secondary bidder with the subsequent lowest responsive responsible, and /or contact the tertiary bidder with the subsequent lowest responsive responsible bid accordingly.

**5.6. PERFORMANCE**

Throughout the contract period the Consultant(s) performance will be monitored by Village staff. If performance fails to meet the standards specified or noncompliance with the conditions, terms, specifications, and requirements of the ITB and receives an unacceptable rating, the Village may without cause and without prejudice to any other right or remedy, terminate the contract whenever the Village determines that such termination is in the best interest of the Village. Vendors receiving an unacceptable rating shall be served by written notice by the Procurement Department. The Village shall be the sole judge of nonperformance.





**SECTION VI  
SCOPE OF WORK**

**6.1 OVERVIEW**



The Village intends to contract one qualified firm to furnish all labor, equipment, and materials to construct a boat dock, boat lift, a kayak launch pad with a mechanized lift, and ramp access to the pier. The project will include but not be limited to all demolition, electrical service, water line and hose bibs, piping and fittings, start-up services, training, site restoration, and all other appurtenances necessary for a complete and accepted project. Construction of this project will require close coordination with the Owner and Engineer of Record.

**6.2 INTENT AND INFORMATION**

A. It is the intent of the bid and construction documents to have a finished project at completion of construction. Thus, the Bidder shall include all costs associated with the construction documents to ensure a full and complete bid for the construction and associated site work. If a specific bid quantity is not listed in the construction and bid documents, it is the contractor’s responsibility to include such items in like or in associated bid items.

- B. All work shall be performed in a professional manner and shall conform to all applicable Village, County, State and Federal Regulations and/or Codes. The Bidder/Contractor shall also be responsible for obtaining all permits and licenses required to begin work.
- C. **Inspection of Facilities:** It is the bidder's responsibility to become fully informed as to the nature and extent of the work required and its relation to any other work in the area, including possible interference from other site activities. Thereby, Contractor is responsible for confirming actual site conditions prior to starting construction and assures that the construction project produced will be completed as specified. **Any oral explanation provided prior to the bid opening will not be binding.**
- D. **Measurements:** Awarded bidder will be responsible for their own measurements and must submit a firm price accordingly. There will be no adjustments, for increase or decrease of measurements required for this job. Therefore, the “Total Offer” must be based on accurate measurements by bidders during inspection. Failure to do so will be at the bidder’s risk.
- E. **Inspection and Direction:** The work will be conducted under the general direction of the Public Works Department and is subject to inspection by an appointed inspector to ensure compliance with the terms of the bid. No inspector is authorized to change any provision of the specifications without written authorization from the Project Manager, nor shall the presence or absence of an inspector relieve the Contractor from any requirements of the bid. Appointments for the final inspection shall be made three (3) days in advance.



- F. **Schedule of Values:** All work for this project, including but not limited to, all profit and overhead, incidentals, all labor, mobilization/demobilization, supervision, testing, machinery, equipment, tools, materials, coordination with utility companies, cleanup and other means of construction necessary to complete the described work in accordance with the specifications, and other contract documents.
- G. **Warranty:** The successful bidder shall warranty all workmanship/labor for a period of 12 months from date of completion and final acceptance by the Public Works Department designee. Should any defect in workmanship, excepting ordinary wear and tear, appear during the above stated warranty period, the successful bidder shall repair or replace same at no cost to the Village, immediately upon written notice from the Public Works Department Designee.
- H. **Start of Work and Time for Completion:** It is hereby understood and mutually agreed by and between parties hereto that the time of completion is an essential condition of this contract. By submitting a bid response, successful bidder agrees to start the work within 10 days of issuance of the Notice to Proceed. Awarded Contractor is to prosecute the work uninterrupted in such a manner, with sufficient labor, equipment and/or materials so as to ensure its completion by no later than **120 days** from Notice to Proceed Date.

**6.3 BOND REQUIREMENTS**

The Successful Contractor shall be required to submit the following Bond requirements on a per project basis based upon method of award.

**North Bay Village Municode**

Article 36.25 - Procurement requirements.

(B) *Responsibilities of the Village Manager.*

... The Village Manager may delegate responsibility for the administration of this Code as he or she deems necessary.

(D) (7) - *Bonds.*

- a) *Construction contracts greater than \$50,000.00.* For construction contracts exceeding \$50,000.00, contractors shall submit the following with the bid documents:
  - 1) A bid guarantee equal to five percent of the bid price;
  - 2) A performance bond for 100 percent of the contract price; and
  - 3) A payment bond for 100 percent of the contract price.
- b) *All other contracts.* The Village Manager may require any or all of the three bonds or guarantees listed above. The bid specification shall include the amount and type of bond(s) or guarantees that are required.

Chapter 151 - Buildings

Article 151.12 – Bond

The Village will require a 5% bond of the bid price, to meet requirements of Article 151.12.

- A. **Bid Bond:** The bond shall be in an amount equal to five percent (5%) of the total amount. The guarantee may be in the form of a Surety Bond with a carrier duly licensed and authorized to do business in the State of Florida, a Cashier's Check or a Certified Check (checks made payable to Village).



Purpose of the Bid Bond/Guarantee is to assure the apparent low, responsive, and responsible bidder will enter into a contract to provide the described services. Should the Bidder not enter into a contract the Bid Bond/Guarantee shall be retained by the Village to defray the additional costs of either awarding to the second low, responsive and responsible Bidder or re-advertise and re-solicit the project.

- B. **Payment & Performance Bonds:** Provide evidence confirming the firm's ability to obtain Payment and Performance Bonds for the construction project as detailed herein. The successful Bidder will be required to furnish payment and performance bonds with a carrier duly licensed and authorized to do business in the State of Florida, equal to one hundred percent (100%) of the total amount of the contract to assure faithful performance and timely payments to all persons providing labor, materials or supplies used in the performance of the work.



## SECTION VII INSURANCE REQUIREMENTS

### 7.1 INSURANCE REQUIREMENTS

- A. Be authorized by subsisting certificates of authority issued to the companies by the Department of Insurance of the State of Florida or be eligible surplus lines insurers under Florida Statute 626.918, and;
- B. Must have a current rating of "A-" or better and a Financial Size Category of "VIII" or better according to the most recent rating in effect by the A.M. Best Company.
- C. North Bay Village must be named as an additional insured on the Commercial General Liability, Business Auto Liability and the Builder's Risk/Installation Floater if required below. If applicable, Certificates shall be filed with the Village by the Contractor, prior to commencement of the Work.
- D. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled without prior written notice to the Village. The Certificates of Insurance from the Commercial General Liability, Business Auto Liability and the Builder's Risk/Installation Floater must have North Bay Village as an additional insured in connection with the work contracted to (Name of Contractor). This insurance applies separately to the Village except with respect to limits of liability and is primary to rather than contributory with any insurance or self-insurance carried by the Village.
- E. Any deviation to the insurance contract terms, conditions or limits listed below need to be approved by the Human Resource Department. Any projects involving Design Professionals (i.e., architects, engineers) shall also have professional liability requirements in the contract.
- F. Contractors shall not charge a markup or fee of any type on any insurance policies required herein.
- G. References to letter and number combinations (i.e., CG 2037) refer to Insurance Services Office (ISO) forms and represent specific coverage provisions that may not be deviated from without approval by the Deputy Village Manager. Contractors, vendors and Consultants should consult with their insurance agent/carrier for more information.
- H. Contact the Human Resource Director at (305) 756-7171 with any questions. All exceptions must be approved, in advance by the Deputy Village Manager.
- I. Construction businesses are required to carry workers' compensation insurance for every employee, including contractors. Firms with four (4) or less employees and does not acquire workers' compensation insurance must submit their State certificate of election to be exempt.
- J. Other applicable insurance and indemnification terms are identified in Articles 5 and 6 of Supplementary Conditions.
- K. The CONTRACTOR agrees to, in the performance of work and services under this Agreement, comply with all federal, state, and local laws and regulations now in effect, or hereinafter enacted during the term of this agreement that are applicable to the CONTRACTOR, its employees, agents, or subcontractors, if any, with respect to the work and services described herein. The CONTRACTOR shall obtain at CONTRACTOR's expense all necessary insurance in such form and amount as required by the Village's Deputy Village Manager before beginning work under this Agreement. The CONTRACTOR shall maintain such insurance in full force and effect during the life of this Agreement. The CONTRACTOR shall provide to the Village's Deputy Village Manager Certificates of all insurance required under this section prior to beginning any work under this Agreement. The CONTRACTOR shall indemnify and save the Village harmless from any damage resulting to it for failure of either CONTRACTOR or any subcontractor to obtain or maintain such





- insurance.
- L. The Village reserves the right to require higher limits depending upon the scope of work under this Agreement.
  - M. Neither the CONTRACTOR nor any subcontractor shall commence work under this contract until they have obtained all insurance required under this section and have supplied the Village with evidence of such coverage in the form of an insurance certificate and endorsement. The CONTRACTOR shall ensure that all subcontractors shall comply with the above guidelines and shall maintain the necessary coverage throughout the term of this Agreement.
  - N. Policies shall be "Occurrence" form. Each carrier shall give the Village sixty (60) days' notice prior to cancellation.
  - O. The CONTRACTOR's general and automobile liability insurance policies shall be endorsed to add North Bay Village, its Commission, employees, officers and agents as an "additional insured". The CONTRACTOR's Worker's Compensation carrier shall provide a Waiver of Subrogation to the Village. The CONTRACTOR shall be responsible for the payment of all deductibles and self-insured retentions.

## 7.2 **INDEMNIFICATION**

- A. Awarded Bidder recognizes the broad nature of this article and voluntarily agrees to indemnify North Bay Village to the fullest extent permitted by Florida law and shall protect, defend, indemnify and hold harmless the Commission, its agents, officers, elected officials, volunteers and employees from and against all claims, expenses, actions, liabilities, losses (including economic losses) and costs arising out of or related to any actual or alleged bodily injury, sickness, disease or death, or injury to or destructions of tangible property.
- B. CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the Village, its employees, representatives, and elected officials from any and all claims and liabilities including all attorney's fees and court costs, including appeals, for which the Village, its employees, representatives, and elected officials can or may be held liable as a result of injury (including death) to persons or damage to property occurring by reason of any negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR, its employees, or agents, arising out of or connected with this Agreement. The CONTRACTOR shall not be required to indemnify the Village or its agents, employees, representatives, or elected officials when an occurrence results solely from the wrongful acts or omissions of the Village, or its agents, employees or representatives.
- C. The CONTRACTOR, without exemption, shall indemnify and hold harmless, the Village, its employees, representatives and elected officials from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, service marked, trademarked patented or unpatented invention, process, or any other intellectual property right or item manufactured by the CONTRACTOR. Further, if such a claim is made, or is pending, the CONTRACTOR may, at its option and expense, procure for the Village the right to use, replace, or modify the item to render it non-infringing. If none of the alternatives are reasonably available, the Village agrees to return the article on request to the CONTRACTOR and receive reimbursement from the CONTRACTOR. If the CONTRACTOR used any design, device or materials covered by letters, patent or copyright, it is mutually agreed and understood, without exception, that the Bid prices shall include all royalties or cost arising from the use of such design, device or materials in any way involved in the work. This article shall survive the termination of any contract with the Village.
- D. The parties agree that Ten Dollars (\$10.00) of the total compensation paid to the Bidder for performance of this Agreement shall represent the specific consideration for the Bidder's indemnification of the Owner.
- E. The Village reserves the right to select its own legal counsel to conduct any defense in any such



proceeding and all costs and fees associated therewith shall be the responsibility of CONTRACTOR under the indemnification agreement.

- F. It is the specific intent of the parties hereto that the foregoing indemnification complies with F.S. 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the “Specific Consideration” therefore.
- G. Nothing contained herein is intended nor shall be construed to waive Village’s rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

**7.3 INSURANCE LIMITS**

- A. **Commercial General Liability:** Insurance coverage for death, bodily injury, personal injury, or property damage. Coverage must be on an occurrence form with limits of least \$1,000,000 each occurrence and \$2,000,000 general aggregate. North Bay Village must be added as an ADDITIONAL INSURED. Any requirements, conditions, or stipulations that limit or restrict a covered activity must be clearly indicated on the Certificate of Insurance or attached thereto. If coverage is afforded solely or in part, through membership, registration, or participation in a master association, organization, or group, the terms and conditions for continued eligibility must be maintained. A lapse in insurance or failure to maintain appropriate coverage may result in the termination of this agreement.
- B. **Automobile Liability:** Insurance coverage for any auto, including hired and non-owned, used in the course and scope of work. Business automobile liability insurance coverage must be on an occurrence form with limits of at least \$500,000 combined single limit, or \$100,000 per person and \$300,000 per accident. *Insurance is required as noted herein if your business owns, leases or rents vehicles. For personal vehicles that are not owned by the business but are driven onto Village property in order to conduct business, we require evidence of personal automobile insurance at least equal to the Florida legal minimum of \$10,000 personal injury protection (PIP) and \$10,000 property damage liability (PDL).*
- C. **Workers’ Compensation and Employers’ Liability:** Insurance that complies with Florida statute, Chapter 440. Minimum coverage limits must be the greater of (1) the statutory requirement or (2) \$500,000 each accident, \$500,000 disease - each employee, \$500,000 disease - policy limit. *Workers’ Compensation insurance is only required if Florida statute mandates that your business have coverage.*

**Construction Contracts < \$ 1,000,000**

Type of Coverage	Minimum Coverage Limit	Notes
Commercial General Liability	\$1,000,000 / \$2,000,000	Requires endorsements CG 20 37 and 20 38 and contract language shall require Waiver of Subrogation
Workers’ Compensation Employer’s Liability	To Statutory Limits (F.S. 440) \$ 500,000/\$500,000/\$500,000	Contract language shall require Waiver of Subrogation
Auto Liability	\$ 500,000	Contract language shall require Waiver of Subrogation with owned, hired and non-owned.
Umbrella Liability	N/A	N/A for most contracts under \$ 1,000,000
Builder’s Risk	Purchased by the contractor in form acceptable to the Village, for value of building and labor costs.	Applicable if project includes construction or rehab of a building (re-roof). The Village is to be listed as additional insured and contractor responsible for deductibles.



Professional Liability	\$1,000,000	Required for all design and design/build activities such as architects, engineers, etc.
Pollution Liability	\$1,000,000	If applicable to work being performed
Railroad Protective Liability	\$1,000,000	If applicable to work being performed next to railroad property.



**SECTION VIII  
FORMS**

- 8.1 BID COVER PAGE CHECKLIST/BID FORM
- 8.2 BID FORM
- 8.3 SCHEDULE OF BID PRICES
- 8.4 BIDDER'S QUALIFICATIONS STATEMENT
- 8.5 SUBCONTRACTOR LIST
- 8.6 REFERENCE FORM
- 8.7 NON-COLLUSIVE AFFIDAVIT
- 8.8 CONFLICT OF INTEREST
- 8.9 DRUG FREE WORKPLACE
- 8.10 PUBLIC ENTITY CRIMES
- 8.11 WARRANTIES
- 8.12 AGREEMENT
- 8.13 NOTICE OF INTENT TO AWARD
- 8.14 NO BID





**BID FORM: BID COVER PAGE CHECKLIST**

THIS SHOULD BE THE FIRST PAGE OF YOUR BID SUBMITTAL

BID NAME: \_\_\_\_\_

BID NO: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

PHONE NO: \_\_\_\_\_

- 1. Submit one (1) complete electronic submittal, contained in one (1) file, PDF format preferred, submitted electronically through [www.DemandStar.com](http://www.DemandStar.com) containing all of the required information **prior to the Bid deadline**. Bids submitted after the bid deadline shall be retained unopened and deemed non-responsive.
- 2. Bid Form/Bid Bond/Schedule/Bid Submittal Certification: **Carefully read all Bid Documents, and properly complete the Bid Form and execute the certification.** *(Failure to properly complete and sign this document shall cause the Bid submittal to be rejected as non-responsive.)*
- 3. Bidder's Qualification Statement: **Complete and sign the Bidder's Qualification Statement.** *(Failure to properly complete and sign this document shall cause the Bid submittal to be rejected as non-responsive.)*
- 4. Subcontractor List: **Complete the form.**
- 5. References: **Complete and submit references on the designated Form.**
- 6. Non-Collusion Affidavit: **Sign the Non-Collusion Affidavit and have it notarized.**
- 7. Conflict of Interest: **Complete and sign the form.**
- 8. Drug Free Workplace Form: **Sign the Drug Free Workplace Form.**
- 9. Public Entity Crime Statement: **Sign the Public Entity Crime Statement and have it notarized.**
- 10. E-Verify Affidavit: **Sign the E-Verify Affidavit and have it notarized. Provide proof of enrollment.**
- 11. Warranties: **Sign the Warranties form and have it notarized.**
- 12. Proof of Insurance: Include proof of insurance containing **a provision or endorsement that the coverage afforded will not be canceled, reduced in coverage, or renewal refused until at least 30 days' prior written notice has been given to the VILLAGE and additional insured by certified mail. All such insurance required herein (except for worker's compensation and employer's liability) shall name the VILLAGE, and their officers, directors, agents, and employees as "additional insured".** Attach to the back of your submittal.
- 13. Licenses: **Attach certificate of competency, state registration and any other applicable licenses.** Attach to the back of your submittal.
- 14. **Proof that firm is registered with Florida Division of Corporations (Sunbiz) and Business Tax Receipt, if applicable.**
- 15. **IF "NO BID" is offered, please complete the last section in the Bid Form and return to the Purchasing Department.**



**BID FORM**

BID NAME: \_\_\_\_\_

BID NO: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
(BIDDER)

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

**A. SCOPE OF WORK**

The Village intends to contract one qualified firm to furnish all labor, equipment, and materials to construct a boat dock, boat lift, a kayak launch pad with a mechanized lift, and ramp access to the pier. The project will include but not be limited to all demolition, electrical service, water line and hose bibs, piping and fittings, start-up services, training, site restoration, and all other appurtenances necessary for a complete and accepted project. Construction of this project will require close coordination with the Owner and Engineer of Record.

**B. BIDDER ACKNOWLEDGES**

In order to be considered for this project, **the Bidder must** have successfully completed a minimum of three (3) satisfactory references of similar accounts and size within the past five (5) years; one (1) similar reference must be from a Government entity or Municipality (public sector entity) within the state of Florida; and provide details of scope of work, location, date of service, names, addresses and phone numbers of owners.

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into a Contract with the VILLAGE to perform and furnish all WORK and deliver all materials in accordance with the bid documents as specified herein for the Contract Price and within the Contract Period indicated in this Bid.
2. This Bid will remain subject to acceptance for ninety (90) days after the day of Bid opening. BIDDER will sign and submit the necessary documents required by the VILLAGE within ten (10) days after the date of VILLAGE'S Notice of Intent to Award.
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Contract, that;
  - a. BIDDER has examined the Bid Documents, including the following addenda, receipt of which is hereby acknowledged:

Number	Date	Number	Date	Number	Date
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- b. BIDDER has familiarized itself with the nature and extent of the Bid Documents, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the WORK. These General Conditions are applicable to all specifications contained in the project manual.
  - c. BIDDER has given the VILLAGE written notice of all conflicts, errors or discrepancies that it has discovered in the Bid Documents and the written resolution thereof by the VILLAGE is acceptable to BIDDER.
4. BIDDER proposes to furnish the WORK in conformity with the specifications and at the Bid Prices referenced below in the Schedule of Bid Prices. The Bid Prices quoted have been checked and certified



to be correct. Said Bid Prices are fixed and firm and shall be paid to BIDDER for the successful completion of its obligation as specified in the Bid Documents.

5. Communications concerning this Bid shall be as follows:

Contact Person	_____
Business Address	_____
City, State, Zip Code	_____
Business Phone Number	_____
Fax Number	_____
Email Address	_____

6. Other pertinent information is as follows:

License Number (Please Attach Copy)	_____
Federal Tax ID#	_____
Federal Employment ID #	_____



**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_ (hereinafter called the Principal), and \_\_\_\_\_ (hereinafter called the Surety), a Corporation chartered and existing under the laws of the State of \_\_\_\_\_ with its principal offices in the Village of \_\_\_\_\_ and authorized to do business in the State of Florida, and North Bay Village, and having an Agent resident therein, such Agent and Company acceptable to North Bay Village, are held and firmly bound unto North Bay Village (hereinafter called Owner), in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), good and lawful money of the United States of America, to be paid upon demand of the said Owner, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally and firmly by these presents.

WHEREAS; the above bounded Principal contemplates submitting or has submitted a proposal to the said Owner for furnishing all necessary labor, materials, equipment, machinery, tools, apparatus, services, all State Workmen's Compensation and Unemployment Compensation Taxes incurred in the performance of the contract, and means of transportation for construction of:

**NORTH BAY VILLAGE  
VOGEL PARK MARINE FACILITY  
ITB# 2023-003**

for said Owner, and;

WHEREAS; the Principal desires to file this Bond in accordance with law, in lieu of a certified Bidder's check otherwise required to accompany this Proposal in the amount of five percent (5%) of the base bid.

NOW THEREFORE, the conditions of this obligation are such that, if the Proposal be accepted, the Principal shall within ten (10) days after receipt of notification of the acceptance thereof, execute a contract in accordance with the Proposal and upon the terms, conditions and price set forth therein, in the form and manner required by the Owner and execute sufficient and satisfactory Performance and Payment Bonds payable to North Bay Village, Florida, each in an amount of one hundred percent (100%) of the total contract price, as indicated in the Proposal, in form and with security satisfactory to the said Owner, then this obligation to be void, otherwise to be and remain in full force and virtue in law; and the Surety shall upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above immediately pay to the aforesaid Owner upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

IN WITNESS WHEREOF, THE said \_\_\_\_\_, as "Principal" herein has caused these presents to be signed in its name, by its \_\_\_\_\_ under its corporation seal, and the said as "Surety" herein, has caused these presents to be signed in its name by its \_\_\_\_\_, and attested by its, \_\_\_\_\_ under its corporate seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.





ATTEST:

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

BY: \_\_\_\_\_(Title)  
(Principal)

ATTEST:

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

BY:  
(Surety) Attorney-in-Fact

(Attorneys-in-Fact who sign this bond must file with it a certified copy of their power-of-attorney to sign said Bond).

(The rest of this page was intentionally left blank)



**SCHEDULE OF BID PRICES**

For all work associated and described in the bid documents, drawings, and specifications. The cost of incidental work described in these Contract Requirements, for which there are no specific Contract and or contract line items, shall be considered as part of the general cost of doing the work and shall be included in the prices for the various Contract Items. No additional payment will be made. All rates quoted shall include travel means, labor and all equipment and tools required. All disposal charges should be included in the contractor's unit prices. There shall be no charges to and from the Village work sites.

A materials list with unit price shall be recorded and reviewed with Owner and Engineer at each Project Progress Meeting. Acceptances of quantities/materials list used to date are to be documented in the meeting minutes.

If these documentation and approval procedures are not followed by the contractor, a later request for award of unit price costs may be denied by the Owner and Engineer.

The Village intends to award a contract to the lowest Responsive and Responsible bidder as a basis for award. Items include all profit and overhead, incidentals, all labor, supervision, testing, machinery, equipment, tools, materials, cleanup, and other means of construction to successfully complete the project in accordance with specifications and construction documents herein.

Item	Description	Est. Qty	Unit	Price	Value
1.	Mobilization and Demobilization	1	LS	\$	\$
2.	Clearing and Grubbing	1	LS	\$	\$
3.	Regular Excavation	20	CY	\$	\$
4.	Type B Stabilization (12-inches)	17	SY	\$	\$
5.	Superpave Asphaltic Concrete, Traffic C, PG76-22	1	TN	\$	\$
6.	Concrete Sidewalk and Driveways, 4" thick	4	SY	\$	\$
7.	Walkway Ramp Transition	1	LS	\$	\$
8.	Performance Turf, Sod	11	SY	\$	\$
9.	Utility Pipe, Furnish and install, HDPE, water, 3/4"	20	LF	\$	\$
10.	Utility Pipe, Tapping SAD/SL, Furnish and install, copper, water, 3/4"	5	LF	\$	\$
11.	General Requirements & Conditions (25%)	1	LS	\$	\$
12.	Mobilization and Demobilization 1	1	LS	\$	\$
13.	Turbidity Control and Monitoring	1	LS	\$	\$
14.	Construction Surveying	1	LS	\$	\$
15.	Removal of Existing Fence	1	LS	\$	\$
16.	Furnish and install 12" Dia wood Mooring pile	1	EA	\$	\$
17.	Furnish and install 12" Dia wood boat lift pile	4	EA	\$	\$



Item	Description	Est. Qty	Unit	Price	Value
18.	Furnish and install 14" Precast concrete piles	14	EA	\$	\$
19.	Furnish and install 72" wide cast-in-place concrete cap w/ rebar	142.7	CY	\$	\$
20.	Furnish and install 48" wide cast-in-place concrete cap w/ rebar	42.4	CY	\$	\$
21.	Furnish and install 14" Precast concrete beams 1'x 1'-4"	115	LF	\$	\$
22.	Furnish and install closure pours	1	EA	\$	\$
23.	Furnish and install grated decking	212	SF	\$	\$
24.	Furnish and install Fasteners	1	LS	\$	\$
25.	Furnish and install electrical lights	1	LS	\$	\$
26.	Furnish and install potable water line and upland connection	1	LS	\$	\$
27.	Furnish and install aluminum ladders	1	EA	\$	\$
28.	Furnish and install ADA ramp	1	LS	\$	\$
29.	Furnish and install kayak launch	1	LS	\$	\$
30.	Railing	54	LF	\$	\$
31.	Boat lift	1	LS	\$	\$
32.	Bonds & Insurance	1	LS	\$	\$
33.	Contractor Overhead and Profit	1	LS	\$	\$
34.	NBV Permits Allowances (5%)	1	LS	\$	\$
	<b>TOTAL BID AMOUNT</b>				\$

Estimated quantity is for bid evaluation purposes. Actual quantity and/or services may vary.

### TRENCH SAFETY

Item	Trench Safety Measure (Description)	Unit (Qty)	Unit of Measure (LF, SY)	Unit Cost	Extended Cost
A.					
B.					



C.					
<b>Failure to complete the above may result in the bid being declared non-responsive</b>					

**ALL LINE ITEMS MUST ADD UP TO THE TOTAL COST OF THAT SECTION AND TOTAL COST OF THE BID SUBMITTAL**

Submitted on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

a. (If an individual, partnership, or non-incorporated organization)

Signature of BIDDER \_\_\_\_\_

By \_\_\_\_\_

b. (If a corporation)

(Affix Seal)

Signature of BIDDER \_\_\_\_\_

By \_\_\_\_\_

Attested by Secretary \_\_\_\_\_

Incorporated under the laws of the State of \_\_\_\_\_.

**BID PRICES WITHOUT THE MANUAL SIGNATURE OF AN AUTHORIZED AGENT OF THE BIDDER SHALL BE REJECTED AS NON-RESPONSIVE, NON-CONFORMING AND INELGIBLE FOR AWARD.**





CERTIFICATE  
(For Partnership)

I HEREBY CERTIFY that a meeting of the partners of \_\_\_\_\_, a Partnership under the laws of the State of \_\_\_\_\_ held on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_ as \_\_\_\_\_ of the Partnership, is hereby authorized to execute the Bid Form dated \_\_\_\_\_, 20\_\_\_\_, between North Bay Village, Florida, and this Partnership, and that the execution thereof, attested by the \_\_\_\_\_ of the Partnership be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

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

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who  is personally known to me or who  has presented the following type of identification: \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public, State of Florida

\_\_\_\_\_  
Notary seal (stamped in black ink)  
OR

Printed, typed or stamped name of Notary and Commission Number



CERTIFICATE  
(For Corporation)

I HEREBY CERTIFY that a meeting of the Board of Directors of \_\_\_\_\_, a corporation under the laws of the State of \_\_\_\_\_ held on \_\_\_\_\_, 20 \_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_, as \_\_\_\_\_ of the Corporation, is hereby authorized to execute the Bid Form dated \_\_\_\_\_, 20\_\_\_\_, between North Bay Village, Florida, and this Corporation, and that the execution thereof, attested by the Secretary of the Corporation and with corporate seal affixed, shall be the official act and deed of this Corporation".

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who  is personally known to me or who  has presented the following type of identification: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public, State of Florida

\_\_\_\_\_  
Notary seal (stamped in black ink)  
OR  
Printed, typed or stamped name of Notary and  
Commission Number



**BIDDER'S QUALIFICATIONS STATEMENT**

THE UNDERSIGNED GUARANTEES THE TRUTH AND ACCURACY OF ALL STATEMENTS AND ANSWERS HEREIN CONTAINED:

**BIDDER'S GENERAL INFORMATION:** BIDDER shall furnish the following information. Failure to comply with this requirement will render Bid non-responsive and shall cause its rejection. **Additional sheets can be attached as required.**

1. BIDDER'S Name, Principal Address, Phone Number, Fax Number, and email address as follows:

BIDDER'S Name and Principal Address: \_\_\_\_\_

Contact Person's Name and Title: \_\_\_\_\_

BIDDER'S Telephone, \_\_\_\_\_ Fax Number: \_\_\_\_\_

BIDDER'S Email address: \_\_\_\_\_

BIDDER'S License Number: \_\_\_\_\_  
(Please attach certificate of status, competency, and/or state registration.)

(Please attach certificate)

BIDDER'S Federal Identification Number: \_\_\_\_\_

2. Number of years as a Contractor in this type of work: \_\_\_\_\_

Number of years under your present business name?

\_\_\_\_\_

3. How many years under a previous business name? List name(s) below.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Type of Business:

Sole Proprietorship

Partnership

Corporation

Joint Venture

If a Corporation, answer this: \_\_\_\_\_

If a Partnership or Individual Proprietorship, answer this: \_\_\_\_\_

Date of incorporation: \_\_\_\_\_

Date of organization: \_\_\_\_\_

In what State: \_\_\_\_\_

If a partnership, state whether partnership is general, limited association: \_\_\_\_\_



5. Names and titles of all officers, partners or individuals doing business under trade name:

Name of Officers	Name and Address of Partners:
President:	
Vice President:	
Vice President:	
Secretary:	
Treasurer:	

**SUBSIDIARY OR AFFILIATED COMPANIES  
IN WHICH PRINCIPALS HAVE FINANCIAL INTEREST**

NAME AND ADDRESS OF SUBSIDIARY OR AFFILIATED COMPANIES	EXPLAIN IN DETAIL THE PRINCIPAL'S INTEREST IN THIS COMPANY AND NATURE OF BUSINESS

6. Business Structure – Corporation, Joint Venture, or Partnership. Applicants submitting applications as joint ventures, shall submit a copy of their joint venture agreement. If a joint venture or prime/subcontractor arrangement of two (2) firms, indicate how the work will be distributed between the partners.

Business Structure	Indicate By (X)	Copy of Joint Venture Agreement Attached (Y/N)	If applicable, how will work be distributed between partners?
Corporation			
Joint Venture			
Partnership			

Length of time in business for separate Firms of a Joint Venture

Firm(s) Name	Length of Time in Business





7. Principal Office Location – Location of principal office, which will be responsible for implementation of this contract. Please list telephone number (s), facsimile number (s) and email address (s).


8. Other Office Locations – Location of other offices from which resources may be drawn.

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9. Have you, in the previous five years, been denied a contract award on which you submitted the low bid in competitive bidding, or been refused prequalification? If so, please list and describe.

---

10. Within the previous 5 years has your organization or predecessor organizations ever failed to complete a project? If so, state name of organization and reason thereof.

---

11. Within the previous 5 years has your organization been involved in litigation? \_\_\_\_\_. If so, please list and explain nature and current status or resolution.

---

12. Within the last 10 years has your organization been convicted of a Public Entity Crime? If so, please explain.

---

13. Is your organization currently pre-qualified with any governmental agency? \_\_\_\_\_. If so, please list.

---

14. Name, address, and telephone number of surety company and agent who will provide the required bonds on this contract:

---

15. What is the last project of this nature that you have completed?

---

16. Have the Surety Company who will provide your bonds (said Surety Company must have an AM Best rating of Class XI A or better per the Supplementary Conditions, Section IV), provide you with written verification showing that your firm will be bonded for the amount of the contract. This must be submitted with your bid.

17. Have you personally reviewed the proposed WORK, and do you have a complete plan for its performance?



18. List your firm, licensing, type of work licensed for, and also the licensing and types of work the individual who will have personal supervision of the work is licensed for.

Name	License#	Type of Work

19. Will you sublet any part of this WORK? If so, give details.

\_\_\_\_\_

20. List and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Proposer, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description the disposition of each such petition.

\_\_\_\_\_

21. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Bidder or its predecessor organizations(s) during the three (3) years. The list shall include all case names; case, arbitration or hearing identification case or file numbers; the name of the engagement over which the dispute arose; and a description of the subject matter of the dispute, and the status or disposition of the reported action. For joint venture or team Bidders, submit the requested information for each member of the joint venture or team. Use additional paper if necessary.

\_\_\_\_\_

22. List and describe all criminal proceedings or hearings concerning business related offenses in which the Bidder, its principals or officers or predecessor organization(s) were defendants.

\_\_\_\_\_

23. Has the Bidder, its principals, officers or predecessor organization(s) ever filed for bankruptcy? If so, provide details.

\_\_\_\_\_



The Bidder acknowledges and understands that the information contained in response to this Qualification Statement shall be relied upon by VILLAGE in awarding the contract and such information is warranted by Bidder to be true. The discovery of any omission or misstatement that materially affects the Bidder's qualifications to perform under the contract shall cause the VILLAGE to reject the Bid, and if after the award, to cancel and terminate the award and/or contract.

\_\_\_\_\_  
Print Name/Title

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Email:





The BIDDER acknowledges and understands that the information contained in response to this Qualification's Statement shall be relied upon by VILLAGE in awarding the contract and such information is warranted by BIDDER to be true. The discovery of any omission or misstatement that materially affects the BIDDER'S qualifications to perform under the contract shall cause the VILLAGE to reject the Bid, and if after the award, to cancel and terminate the award and/or contract.

The BIDDER also acknowledges that all information listed above may be checked by the VILLAGE and authorizes all entities or persons listed above to answer any and all questions. BIDDER hereby indemnifies the VILLAGE and persons or entities listed above and hold them harmless from any claim arising from such authorization or the exercise thereof, including the dissemination of information requested above.

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

Date \_\_\_\_\_





**REFERENCE FORM**

Contractor must provide a minimum of three (3) satisfactory references of similar accounts and size within the past five (5) years; one (1) similar reference must be from a Government entity or Municipality (public sector entity) within the State of Florida; and provide details of scope of work, location, date of service, names, addresses and phone numbers of owners.

**#1 REFERENCE**

Company/Entity Name:	
Address City, State Zip Code	
Contact Name: Title:	
Phone No: Fax: Email:	
Date of Service or Contract Period: Location	
Summary of Services Performed Governmental or Private	
Dollar Value of Contract	\$

**#2 REFERENCE**

Company/Entity Name:	
Address City, State Zip Code	
Contact Name: Title:	
Phone No: Fax: Email:	
Date of Service or Contract Period: Location	
Summary of Services Performed Governmental or Private	
Dollar Value of Contract	\$

**#3 REFERENCE**

Company/Entity Name:	
Address City, State Zip Code	
Contact Name: Title:	
Phone No: Fax: Email:	
Date of Service or Contract Period: Location	
Summary of Services Performed Governmental or Private	



Dollar Value of Contract	\$
--------------------------	----



**NON-COLLUSIVE AFFIDAVIT**

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ being first duly sworn, deposes and says that:

BIDDER is the \_\_\_\_\_,  
(Owner, Partner, Officer, Representative or Agent)

BIDDER is fully informed respecting the preparation and contents of the attached BID and of all pertinent circumstances respecting such BID;

Such BID is genuine and is not a collusive or sham BID;

Neither the said BIDDER nor any of its officers, partners, owners, agents, representative, employees or parties in interest, including this affidavit, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other BIDDER, firm or person to submit a collusive or sham BID in connection with the Contract for which the attached BID has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communications, or conference with any BIDDER, firm, or person to fix the price or prices in the attached BID or any other BIDDER, or to fix any overhead, profit, or cost element of the BID Price or the BID Price of any other BIDDER, or to secure through any collusion conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;

The price of items quoted in the attached BID are fair and proper and are not tainted by collusion, conspiracy, connivance, or unlawful agreement on the part of the BIDDER or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

By \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who  
 is personally known to me or who  has presented the following type of identification: \_\_\_\_\_.

SEAL

\_\_\_\_\_  
Notary Public (Signature), State of Florida

My Commission Expires: \_\_\_\_\_



**DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST AND CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP**

In accordance with Instructions to Bidder's, each BIDDER must disclose, in its submittal, the names of any employees who are employed by BIDDER who are also an employee of North Bay Village. Persons identified below may have obligations and restrictions applicable to them under Chapter 112, Florida Statutes.

Name of Bidder's Employee	Village Title or Position of Bidder's Employee	Village Department of Bidder's Employee
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check one of the following and sign:

- I hereby affirm that there are no known persons employed by BIDDER who are also an employee of North Bay Village, Florida.
- I hereby affirm that all known persons who are employed by BIDDER, who are also an employee of North Bay Village, Florida, have been identified above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name, Title of Official

\_\_\_\_\_  
Business Address, City, State, Zip Code



**DRUG FREE WORKPLACE CERTIFICATION**

**IDENTICAL TIE RFPS:** Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quantity, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, an ITB received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie ITBs will be followed if none of the tied vendors have a drug-free workplace program (Florida Statutes Section 287.087). In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, and available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under ITB a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under ITB, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
(Print or Type Name)





**SWORN STATEMENT ON PUBLIC ENTITY CRIMES**

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

1. I understand that a "public entity crime" as defined in Paragraph 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 any agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
2. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of the 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 a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
3. 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 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 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.
4. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes means any natural person or 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 for the provision of goods or services 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.
5. Based on information and belief, the statement that 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 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.
  - 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. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of



Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

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 AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who  is personally known to me or who  has presented the following type of identification:\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public, State of Florida

\_\_\_\_\_  
Notary seal (stamped in black ink)  
OR  
Printed, typed or stamped name of Notary and Commission Number



## WARRANTIES

In consideration of, and to induce the Award of **NORTH BAY VILLAGE**, Construction Contract described in these Bid Documents, the Contractor represents and warrants to North Bay Village:

1. The Contractor is financially solvent and sufficiently experienced and competent to perform all of the work required of the Contractor in the Construction Contract; and
2. That the facts stated in the Contractor's Bid and information given the Contractor pursuant to the request or proposal for Bids, instructions to Contractors and Specifications are true and correct in all respects; and
3. That the Contractor has read and complied with all of the requirements set forth in the request for Bids, instructions to Contractors and Specifications; and
4. That the Contractor warrants all materials supplied by it under the terms of the Construction Contract are delivered to North Bay Village, free from any security interest, and other lien, and that the Contractor is a lawful owner having the right to sell the same and will defend the conveyance to North Bay Village, against all persons claiming the whole or any part thereof; and
5. That the materials supplied to North Bay Village, under the Construction Contract are free from the rightful claims of any persons whomsoever, by way of patent or trademark infringement or the like; and
6. That the materials supplied under the Construction Contract are merchantable within the meaning of the Uniform Commercial Code Section 2-314; and
7. That the materials supplied under the Construction Contract are free from defects in materials and workmanship under normal use and service and that any such materials found to be defective shall be replaced by the Contractor as per the attached Warranty.
8. That the materials supplied pursuant to the Construction Contract are fit for the purposes for which they are intended to be used; that under normal use and maintenance the material will continue to be fit for such purposes for the warranty period after delivery, provided that the Village shall give the Contractor notice that the materials failed to fulfill the warranty; such notice shall state in what respect the materials have failed to fulfill the warranty, where upon the Contractor shall be allowed a reasonable time after receipt of such notice to correct the defect and the Village agrees to cooperate in this regard. If the materials cannot be made to fulfill the Contract within the warranty period the Contractor will either furnish duplicate materials, or at its option refund the amount paid, which shall constitute a settlement in full for all damages occasioned by reason at this warranty of fitness; and
9. That this Warranty is included in exposures for which the Contractor has products liability and completed operations insurance, in minimum amounts of One Hundred Thousand (\$100,000.00) Dollars for property damage and Three Hundred Thousand (\$300,000.00) Dollars for personal injury as shown on the Certificates of such Insurance attached hereto, and the Contractor agrees to keep such insurance coverage during the period of this Warranty; and
10. That it is an express condition of this Warranty that the item(s) hereby warranted shall be operated and maintained by the Village in accordance with the manufacturer's recommendations as to those portions of the item(s) that are not fabricated by the Contractor, and in accordance with the Contractor's recommendations, a copy of which has either been supplied to the Village should maintain complete and accurate records made at the time of performance of maintenance showing compliance with such instructions, and by acceptance of this Warranty, North Bay Village, agrees to present such records to the Contractor upon request in the event of a claim hereunder by the Village;
11. The foregoing Warranties apply as a minimum and are supplemental to other Warranties offered. They are not substituted, but in addition to, any other Warranties offered; and



12. That it is agreed and understood by the Contractor that North Bay Village, is induced to enter the Construction Contract in reliance upon this Warranty.

**SIGNED**, sealed and delivered on this \_\_ day of \_\_\_\_\_, 20\_\_ .

(SEAL)

CONTRACTOR:

By \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Secretary



**AGREEMENT (CONTRACT)**  
**BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT is dated as of the \_\_\_\_ day of \_\_\_\_\_ in the year 2021 by and between North Bay Village (hereinafter called OWNER) and \_\_\_\_\_ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK.** CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Furnish all labor, equipment, and materials to construct a boat dock, boat lift, a kayak launch pad with a mechanized lift, and ramp access to the pier. The project will include but not be limited to all demolition, electrical service, water line and hose bibs, piping and fittings, start-up services, training, site restoration, and all other appurtenances necessary for a complete and accepted project. Construction of this project will require close coordination with the Owner and Engineer of Record.

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

**NORTH BAY VILLAGE**  
**VOGEL PARK MARINE FACILITY**  
**ITB# 2023-003**

**Article 2. ENGINEER.** The Project has been designed by the following:

ENGINEER  
EAC Consulting, Inc.  
5959 BLUE LAGOON DRIVE  
SUITE 410  
MIAMI, FL 33126

who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**Article 3. CONTRACT TIME.**





- 3.1 The Work will be substantially completed within 120 calendar days after the date when the Contract Time commences (Notice to Proceed) to run as provided in paragraph 2.3 of the Supplementary Conditions and completed and ready for final payment in accordance with paragraph 14.10 of the Supplementary Conditions within 360 calendar days after the date when the Contract Time commences to run.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Articles 11 & 12 of the Supplementary Conditions. They 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 substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER Five Hundred and 00/100 dollars (\$500) for each day that expires after the time specified in Paragraph 3.1 for substantial completion until the Work is substantially complete. Liquidated damages shall be deducted from the final CONTRACTOR pay request.

#### **Article 4. PERFORMANCE.**

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Document in current funds as follows:

According to the TOTAL BID AMOUNT contained in the proposal and the Schedule of Values provided for payment request purposes.

#### **Article 5. PAYMENT PROCEDURES.**

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the Supplementary Conditions. Applications for payment will be processed by ENGINEER as provided in the Supplementary Conditions.

- 5.1. Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or before the 28<sup>th</sup> day of each month during construction as provided below. The Applications for Payment shall be in AIA format. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in paragraph 14.1.1 of the Supplementary Conditions.
- 5.2 Prior to Substantial Completion, progress payments will be in an amount equal to: 90% of the Work completed and 90% of materials and equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.



- 5.3 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as ENGINEER shall determine in accordance with paragraph 14.5.4 of the Supplementary Conditions.
- 5.4 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.5.1 of the Supplementary Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.5.1.

**Article 6. INTEREST.** Not Applicable

**Article 7. CONTRACTOR'S REPRESENTATIONS.**

In order to induce OWNER to enter into Procurement Agreement, CONTRACTOR makes the following representations:

- 7.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 7.2. CONTRACTOR has carefully studied all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 7.3. CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4. CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 7.5. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

**Article 8. CONTRACT DOCUMENTS.**

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof and consists of the following:

- 8.1. This Agreement (all pages)
- 8.2. Exhibits and Appendices to this Contract Document/Agreement
- 8.3. Performance and Payment Bonds
- 8.4. Notice of Award
- 8.5. Supplementary Conditions



8.6. Specifications bearing the following general title:

North Bay Village

VOGEL PARK MARINE FACILITY

ITB# 2023-003

8.7 Addendum

8.8 CONTRACTOR'S BID

8.9 Documentation submitted by CONTRACTOR prior to Notice of Award

8.10 Any Modifications, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Section 1 of the ITB).

**Article 9. MISCELLANEOUS**

9.1. Terms used in this Agreement which are defined in Section 1 of the ITB shall have the meanings indicated in the Supplementary Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may 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.

9.3. OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have signed four (4) sets of this Agreement. At least one counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

OWNER

CONTRACTOR

North Bay Village

\_\_\_\_\_

ADDRESS

ADDRESS



1666 Kennedy Causeway, Suite 300

\_\_\_\_\_

North Bay Village, FL 33141

\_\_\_\_\_

BY \_\_\_\_\_

BY \_\_\_\_\_

(CORPORATE SEAL)

(CORPORATE SEAL)



**NOTICE OF INTENT TO AWARD**

TO: \_\_\_\_\_

Contractor

\_\_\_\_\_

Address

ATT: \_\_\_\_\_

Name and Title

PROJECT: NORTH BAY VILLAGE  
VOGEL PARK MARINE FACILITY  
ITB# 2023-003

Gentlemen:

This is to advise that you have been awarded the contract for the above referenced project as a result of your bid of: \_\_\_\_\_ (\$ \_\_\_\_\_) submitted to North Bay Village (Owner) on \_\_\_\_\_ (Date).

Three (3) sets of the Project Manual for this project are attached. Each set contains an unexecuted Agreement and the requirement for attaching the Performance and Payment Bonds. Please execute all copies of the Agreement and attach a copy of the Performance and Payment Bonds to each Agreement and return the Project Manuals to our office for final execution by the Owner.

Your attention is invited to the provision whereby your proposal guarantee may be forfeited in the event the Agreement with satisfactory Performance and Payment Bonds attached is not executed and delivered to the Owner within ten (10) consecutive calendar days from \_\_\_\_\_ (Date).

Sincerely yours,

By: \_\_\_\_\_  
Delroy Peters





**STATEMENT OF NO BID**

Please complete and return this form prior to ITB opening date.

ITB NAME: \_\_\_\_\_

ITB NO: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

PHONE NO: \_\_\_\_\_

We have declined to submit on this solicitation for the following reasons:

Specifications too "restrictive", i.e., geared toward one brand or manufacturer (Please explain below)

Insufficient time to respond to solicitation.

We do not offer this product/service or equivalent.

Our project schedule would not permit us to perform.

Unable to meet specifications, please explain \_\_\_\_\_

Unable to meet requirements, please explain \_\_\_\_\_

Specifications unclear, please explain \_\_\_\_\_

Other, please specify \_\_\_\_\_

REMARKS:

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

WE UNDERSTAND THAT IF THE "NO BID" LETTER IS NOT EXECUTED AND RETURNED; OUR NAME MAY BE DELETED FROM THE LIST OF QUALIFIED BIDDERS FOR THE VILLAGE FOR FUTURE PROJECTS.

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**SECTION IX**  
**PROJECT TECHNICAL DOCUMENTATION**

- Exhibit A – Technical Specifications**
- Exhibit B – Geotechnical Report**
- Exhibit C – Vogel Park Marine Facility - Waterward Portion 100% SS Plans**
- Exhibit D – Vogel Park Marine Facility - Upland Portion 100% SS Plans**
- Exhibit E – FPL Letter – Sheet E.6**
- Exhibit F – Vogel Park Marine Facility Photo Card**
- Exhibit G – FDEP Permit #13-0205374-001002-EE**
- Exhibit H – USACE Permit #20220901**