

EXHIBIT A - CHANGE ORDER FORM

I. GENERAL CONDITIONS PARAGRAPH 12.1: CHANGE ORDERS.

1. **Change Order Form.** All Change Orders shall be executed in writing by Owner and Construction Manager, shall be in the form attached hereto as **Exhibit A, Page 2**, and shall contain full particulars of the changes, and any adjustments of the GMP or Contract Time.

EXHIBIT A - CHANGE ORDER FORM

DPC – STAGE II CHANGE ORDER

PROJECT: _____ CHANGE ORDER NO: _____
TO: _____ DATE: _____
CONTRACT NO: _____
CONTRACT DATE: _____

You are hereby authorized to make the following changes in the Contract:

<u>PCI</u>	<u>COR</u>	<u>Date</u>	<u>Description</u>	<u>Total</u>
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TOTALS FOR CHANGE ORDER \$

The GMP was\$

Net changes by previously authorized Change Orders.....\$

The GMP prior to this Change Order was\$

The GMP will be (increased) (decreased) (unchanged) by this Change Order
in the amount of\$

The new GMP, including this Change Order will be\$

The time for completion of the Project will be (increased) (decreased) (unchanged) by (_____) days

The date of Substantial Completion as of the date of this Change Order is _____

Payment for this change shall fully compensate Construction Manager for all costs directly or indirectly related to this work and for any effect upon other Work under the Contract

Documents except as may be otherwise expressly noted herein. Unless otherwise expressly provided for herein, all impact costs resulting from the performance of this Change Order are included herein and no other impact cost resulting from the performance of this Change Order shall be permitted. No extension of time for the performance of this Change Order Work or any other Work under the Contract Documents shall be allowed as a result of this Change Order, except as otherwise specifically provided above. All other terms and conditions of the Agreement between Owner and Construction Manager remain unchanged.

OWNER:

CONSTRUCTION MANAGER:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED BY CCR/CITY (AS NECESSARY):

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT B - CHANGE ORDER PRICING

I. GENERAL CONDITIONS ARTICLE 12: CHANGES IN THE WORK.

1. **Contract Sum Changes.** The increase or decrease in the Contract Sum shall be determined in one of the following ways, and in the precedence of the order listed:
 - .1 by an accepted unit price proposed in the GMP Amendment for the Work, plus Construction Manager's Fee and surety bond premium cost (if any), computed in a manner as provided for in Paragraph 1.3 below.
 - .2 by a lump sum cost acceptable to Owner and Construction Manager, based on Construction Manager's estimated costs, plus Construction Manager's Fee and surety bond premium cost (if any), as provided for under Paragraph 1.3 below.
 - .3 by mutually agreeable unit prices for the Work, plus Construction Manager's Fee and surety bond premium cost (if any), computed in a manner as provided for in Paragraph 1.3 below.
 - .4 on the actual Cost of the Work (as defined in the Agreement), as determined by payroll records plus Construction Manager's Fee and surety bond premium cost (if any), all as provided for in Paragraphs 1.2 through 1.8 below.

2. **Unit Price Changes.** Except for unit prices included in the GMP Amendment, for proposed changes in the Work performed on a unit price basis, Construction Manager shall submit an itemized list of quantities with the applicable unit cost and extended price for each, in such form and detail as reasonably required by Owner. The accepted unit prices shall include all subcontractors' overhead/ profit and shall be applied for both additive and deductive Change Orders.

3. **Construction Manager's Overhead.** The amount that will be allowed for Construction Manager's Overhead shall be negotiated individually based on the nature of the change and labor rates provided for CM staff.

4. **Construction Manager's Fee.** The amount that will be allowed for Construction Manager's Fee (profit) on net additive changes shall be 3.5% of the Cost of the Work related to such change.

5. **Material Costs.** Material costs shall be at the actual costs to Construction Manager or Subcontractor. Upon request, Construction Manager (or Subcontractor) shall submit evidence to substantiate the costs. Materials shall be quoted at trade discount prices if realized, with quantity discounts also applied if realized. In any proposal with material credits, the credit shall be based on the actual cost for the Material (including trade and quantity discounts if realized) less any charge actually incurred for handling or returning Material that has been delivered.

6. **Change Order Amount Calculation.** Except for changes based on unit prices included in the Agreement, costs changes shall be computed by determining the actual Cost of the Work, applicable insurance cost, then adding Construction Manager's Overhead and Fee as provided for under Paragraph 1.3 and 1.4 above and the surety bond premium cost (if any) and finally adding any applicable sales tax on Materials.
7. **Subcontractor's Markup Limitation.** Subcontractors shall compute their costs in the same way and are subject to the maximum overhead/profit of fifteen percent (15%) of the actual Cost of Work for Work performed by the Subcontractor's own forces. Subcontractor is permitted five percent (5%) overhead/profit for actual Work performed by sub-subcontractors. For each sub-subcontractor involved, fifteen percent (15%) overhead/profit is allowed for actual Work performed by the sub-subcontractor. In no event shall the total combined overhead/profit exceed twenty-five percent (25%) of the total Work added or changed. If work is performed by a third tier subcontractor (or a lower tier subcontractor) , the Construction Manager and Subcontractor shall determine the distribution of the maximum of thirty percent (30%) overhead/ profit for all tiers involved.
8. **Subcontractor's Markup Inclusions.** The percentages allowed for overhead/ profit at the subcontractor (and any lower tier subcontractor(s)) level shall include:
 - I. Field and Office supervision and administration, including the field superintendent
 - II. General Insurance, except that listed as labor burden
 - III. Use of small tools
 - IV. Shop Burden
 - V. All estimating and administrative costs
 - VI. Indirect costs related to the Work, including impact costs resulting from the performance of cumulative Change Orders
 - VII. Any other costs resulting from the change not expressly enumerated as a Cost of the Work, including general requirements that are directly attributable to the change shall be considered Cost of the Work (e.g., protection, clean-up, reproduction and safety)
9. **Sales Tax.** Except for changes based on unit prices, cost changes shall be computed by determining the actual Cost of the Work to which the overhead/ profit may be added and then adding any applicable sales tax on Materials.
10. **Deductive Change Orders.** For changes that deduct scope, excluding deductive Charge Orders for Owner Furnished Materials, from the GMP resulting in a decrease to the GMP amount, a corresponding decrease in the Construction Manager's Fee shall be applied in accordance with item I. 4 of this exhibit. For

changes involving both additions and deductions, the Construction Manager's Fee shall be applied to the net difference.

11. **Change Order Work Execution Direction.** On changes where the value or extent of Work cannot be agreed upon, Owner may authorize Work to proceed on an agreed upon cost plus basis, not to exceed a pre-determined maximum amount. In such cases, the basic costs and mark-up for overhead and profit will be in accordance with this Exhibit; provided, however, Construction Manager shall not be required to continue to perform any such change Work if the not to exceed maximum amount is reached.

EXHIBIT C

Insurance Requirements

1.1 Evidence of Insurance. The Construction Manager shall, prior to the commencement of performance of the Work at the Project Site, deliver evidence in the following manner to the Owner, Owner's Representative, and City that the Construction Manager has procured the insurance required under this Exhibit C:

1.1.1 As evidence of compliance with the insurance required by (i) paragraph 1.4.1 below (Workers' Compensation/Employer's Liability), (ii) paragraph 1.4.2 below (Commercial General Liability), and (iii) paragraph 1.4.3 below (Contractors' Pollution Liability), the Construction Manager shall furnish the Owner, Owner's Representative, and CCR with a fully completed certificate of insurance, such as a standard ACORD Certificate of Liability Insurance (ACORD Form 25-S) or other evidence reasonably satisfactory to the Owner, (the "Certificate of Insurance"), signed by an authorized representative of the insurer(s) providing the coverages. The Certificate of Insurance shall identify this Project, shall verify that the Workers' Compensation/Employer's Liability coverage contains a waiver of subrogation in favor of Owner, Owner's Representative and City, and shall provide that Owner, Owner's Representative and City shall be given no less than thirty (30) days' prior written notice of cancellation. In addition, the Certificate of Insurance shall reference Owner, Owner's Representative and City as additional insureds on all coverages for which such an endorsement is available and, upon its receipt thereof the Construction Manager shall deliver to Owner, Owner's Representative and City copies of the actual additional insured endorsement as issued on the policy providing the Commercial General Liability coverage as required in paragraph 1.4.2.D below, signed by an authorized representative of the insurer(s) verifying inclusion of Owner, Owner's Representative and City and their officials, officers and employees as additional insureds in the Commercial General Liability coverage.

1.1.2 As evidence of compliance with the insurance required by paragraph 1.4.6 below (Property/Builder's Risk Insurance), the Construction Manager shall furnish the Owner, Owner's Representative, and CCR with either:

- A. A certified copy of the Property Insurance policy(ies), or
- B. A fully completed Evidence of Property Insurance form (ACORD Form 27), a copy of the original of the policy, or other evidence reasonably satisfactory to the City signed by an authorized representative of the insurer(s) providing the coverage.

1.1.3 Not used.

1.1.4 Until such time as the insurance required hereunder is no longer required to be maintained by the Construction Manager, the Construction Manager shall provide Owner, Owner's Representative, and CCR with renewal or replacement evidence of the insurance in the

manner described in paragraphs 1.1.1 and 1.1.2 above prior to the expiration or termination of the insurance for which previous evidence of insurance has been provided.

1.1.5 Notwithstanding the prior submission of a Certificate of Insurance, the Construction Manager shall, if requested, provide Owner, Owner's Representative, and CCR with a complete copy of each of the required policies of insurance within thirty (30) days of receipt of each of such policies from the insurers.

1.2 Qualification of Insurers. Each such insurer must be either (i) authorized by a subsisting certificate of authority issued to the insurer by the Florida Department of Financial Services, or (ii) an eligible surplus lines insurer under Chapter 626.918, Florida Statutes. In addition, each such insurer shall have and maintain throughout the period for which coverage is required a Best's Rating of "A" or better and a Financial Size Category of "X" or better, according to A. M. Best Company (or other evidence of financial integrity reasonably acceptable to the Owner and City).

1.3 Change in Insurer Qualifications. If an insurer shall fail to comply with the foregoing minimum requirements, once the Construction Manager has knowledge of any such failure, the Construction Manager shall immediately notify the Owner, Owner's Representative, and CCR and, within thirty (30) days after Construction Manager becomes aware of such failure, replace the insurance provided by the non-complying insurer with insurance issued by an insurer meeting the requirements set forth herein.

1.4 Description of Construction Manager Required Insurance. Unless and to the extent the City and Owner have agreed otherwise, without limiting any of the other obligations or liabilities of the Construction Manager, the Construction Manager shall, as a Cost of the Work, procure, maintain and keep in force the amounts and types of insurance conforming to the minimum requirements set forth in this Exhibit C. Except as otherwise specified in the Agreement or this Exhibit C, the insurance shall commence on or before the delivery to the Owner, Owner's Representative, and CCR of the evidence of such insurance as required by Sections 1.1.1 and 1.1.2 above and shall be maintained in force until Substantial Completion and for such longer periods and/or with such extended tails as Construction Manager is able to procure on a commercially reasonable basis, in accordance with Section 1.4.6 below (except with respect to Products/Completed Operations coverage, which shall extend beyond Final Completion as required below).

1.4.1 Workers' Compensation/ Employer's Liability. The Construction Manager shall procure and maintain Workers' Compensation/Employer's Liability insurance conforming to the following requirements:

A. The Workers' Compensation/Employer's Liability insurance shall cover the Construction Manager and the Subcontractors, and other Persons performing Work at the Project Site, other Work locations identified in the Agreement or at other materials staging/laydown locations under this Agreement for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any

restrictive endorsements except those required by NCCI. or the State of Florida, if any. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage shall be included for the Federal Employer's Liability Act and any other applicable federal or state law. Employer's liability limit shall be \$1,000,000.

B. The policy must be endorsed to waive the insurer's right to subrogate against Owner, Owner's Representative, and City and their officials, officers and employees, in the manner which would result from the attachment of the NCCI Waiver Of Our Right To Recover From Others Endorsement (Advisory Form WC 00 03 13), with Owner, Owner's Representative, and City and its officials, officers and employees scheduled thereon.

C. Subject to the restrictions of coverage found in the standard Workers' Compensation policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standard Workers' Compensation policy (inclusive of any amounts provided by an umbrella or excess policy) shall be:

- \$50,000,000 (Each Accident)
- \$50,000,000 (Disease-Policy Limit)
- \$50,000,000 (Disease-Each Employee)

1.4.2 Commercial General Liability. The Construction Manager shall procure and maintain (or shall cause others to procure and maintain) Commercial General Liability insurance conforming to the following requirements:

A. The Commercial General Liability insurance shall cover the Construction Manager, Subcontractors, and other Persons performing Work at the Project Site, other Work locations identified in the Agreement or at other materials staging/laydown locations under this Agreement for those sources of liability which would be covered by commercially reasonable Commercial General Liability Coverage forms and endorsements (which forms and endorsements shall be subject to the reasonable approval of the Owner, Owner's Representative, and City). Such insurance shall be no more restrictive than the coverages provided by the most recent version of standard Commercial General Liability Form (ISO Form CG0001) as filed for use in the State of Florida. Construction Manager will provide proof of its Professional Liability Coverage.

B. The coverage may include restrictive endorsements which exclude coverage for liability arising out of:

- Terrorism
- Silica, asbestos or lead
- Sexual molestation
- Architects & engineers professional liability
- Exterior Insulation And Finish Systems (EIFS) (unless EIFS is included in the Work)

C. The minimum limits to be maintained by the Construction Manager (inclusive of any amounts provided by an umbrella or excess policy) shall be:

\$50,000,000 (Each Occurrence)
\$50,000,000 (General Aggregate)
\$50,000,000 (Product/Completed Operations Aggregate)
\$25,000,000 (Personal & Advertising Injury)

D. The Construction Manager shall include Owner, Owner's Representative, and City and their respective officials, officers and employees as additional insureds on the Commercial General Liability coverage. The foregoing coverage shall be subject to the reasonable approval of the Owner, Owner's Representative, and City. Such additional insured coverage shall be provided on a form no more restrictive than the most recent version of ISO Form CG 2010. The Certificate of Insurance shall be clearly marked to reflect such additional insured status, and a copy of the additional insured endorsement(s) shall be included with the Certificate of Insurance provided to the Owner, Owner's Representative, and CCR.

E. The Construction Manager shall, as long as such coverage is commercially available, continue to maintain Products/Completed Operations coverage for a period of ten (10) years after Substantial Completion. The Products/Completed Operations coverage and forms shall be subject to the reasonable approval of the Owner, Owner's Representative, and City. The minimum limits to be maintained shall be the amounts shown in Section 1.4.2.C above as the minimum each occurrence and Products/Completed Operations Liability aggregate limits respectively required for the commercial general liability coverage.

1.4.3 Contractors' Pollution Liability. The Construction Manager shall procure and maintain Environmental Impairment/Contractors' Pollution Liability insurance conforming to the following requirements:

A. Construction Manager will provide Pollution Liability insurance to cover exposures from unexpected releases of Hazardous Materials by Construction Manager or those for which it is responsible. Construction Manager's Pollution Liability insurance will not provide coverage for Owner's site liability or events which are not caused by Construction Manager or those for which it is liable. The maximum permissible deductible or self-insured retention for the Pollution Liability policy shall be \$250,000 for each pollution incident. The GMP will include a Pollution Deductible Allowance of \$1, for deductibles under the Pollution policy. To the extent that a release of pre-existing hazardous materials on the Project site is (a) of materials not identified in Contract Documents and (b) not caused by the culpability or fault of Construction Manager or those for which it is responsible, then Construction Manager has no liability to Owner in connection with the release and Owner agrees that if the Construction Manager's policy responds, then the costs associated with the deductible under the Pollution Liability policy will be treated as a Cost of the Work, so that the Pollution Deductible Allowance, and the GMP, will be equitably adjusted as necessary to reimburse Construction Manager for the deductible expense, if any is incurred. The \$1 Pollution Deductible Allowance,

and the GMP, will not be adjusted in cases where (a) and (b) above do not apply, and in such case \$1 shall be the maximum allowable reimbursement for pollution incidents.

B. Such insurance shall include coverage for the acts of the Construction Manager, subcontractors and suppliers of any tier, and any other entities performing Work under this Agreement for environmental clean up costs resulting from pollution incidents resulting from the acts of the Construction Manager, subcontractors and suppliers of any tier, and any other entities performing Work at the Project Site and at any ancillary locations that are identified in the Contract Documents as locations where activities related to this Agreement will take place. Such insurance also shall provide coverage for third party liability for bodily injury and property damage resulting from pollution incidents resulting from the acts of the Construction Manager, Subcontractors, Suppliers and other Persons performing Work at the Project Site, other Work locations identified in the Agreement or at other materials staging/laydown locations. Such insurance shall be on a form reasonably acceptable to the Owner, Owner's Representative, and City. Coverage must be either on an occurrence basis, or, if on a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

C. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

\$10,000,000 Each Claim/Occurrence
\$10,000,000 Annual Aggregate

1.4.4 Construction Manager Provided Insurance Program. Owner grants permission to the Construction Manager to provide any of the insurance coverages required in this Exhibit C via a Contractor Controlled Insurance Program ("CCIP"). If implemented, the CCIP will include coverage for the Construction Manager, enrolled Subcontractors, and other Persons performing Work under this Agreement. However, to the extent any of the required insurance coverages are provided through the use of an CCIP, such insurance must provide coverage in a scope and amount equivalent to what would be provided on separate insurance policies complying with the requirements of this Exhibit C, including any and all requirements to extend coverage to Owner, Owner's Representative, and City and their respective officials, officers and employees as additional insureds. Further, for any CCIP program used under this Agreement, the Construction Manager will provide to the Owner, Owner's Representative, and City, at least on a quarterly basis, in a type and format reasonably agreeable to the Owner, Owner's Representative, and City, reports detailing the activity under such CCIP program, including reports of all claims and losses of all insured entities under the CCIP.

1.4.5 Other Insurance. To the extent not covered under the CCIP as described in Section 1.4.4 above, Construction Manager shall require the subcontractors and other Persons performing Work under this Agreement (including any Work performed after Substantial Completion), to maintain any and all insurance required by applicable laws, and to maintain reasonable and appropriate insurance coverage (including Business Auto Liability) in types and amounts to be determined by the Construction Manager, subject to reasonable approval by the

Owner, Owner's Representative, and City. Except to the extent required by applicable laws, or as otherwise specifically provided by this Agreement, this Agreement does not establish specific minimum insurance requirements for the subcontractors and other Persons performing Work under this Agreement. Prior to commencement of construction activities, Construction Manager shall procure Business Auto Liability insurance covering Construction Manager with minimum coverage limits of \$2,000,000 per occurrence. Owner, Owner's Representative, and City, and their respective officials, officers, and employees, shall be named as additional insureds on the Business Auto Liability policy procured by Construction Manager.

1.4.6 Property/Builder's Risk Insurance. The Construction Manager shall procure and maintain as a Cost of the Work Property/Builder's Risk insurance conforming to the following requirements:

A. The Construction Manager shall provide, in a policy reasonably acceptable to the Owner, Owner's Representative, and City, "all risk" (i.e., Special Form) property insurance on all buildings, structures, additions, machinery, and equipment. Coverage shall include City-Furnished Materials during transit, storage and incorporation into the Work, subject to reasonable sublimits to be established by Owner and City. Coverage also shall include coverage in the amount of \$10,000,000.00 for soft costs, interest expense and delayed opening loss of income or rents arising from the delay in completion resulting from a covered physical loss to property, subject to reasonable sublimits to be established by Owner and City. All sublimits must be commercially reasonable. With respect to sublimits for soft costs, liquidated damages, interest expense or loss of income or rents, the identified sublimits are the limits of liability for Construction Manager and its Subcontractors for delays arising from a covered physical loss to property, including if applicable damage from named storms under Article 1.4.6.C below.

B. With respect to all perils typically covered in an "all risk" Property/Builder's Risk coverage form other than Named Storm, Flood and Earthquake, the limit of the policy(ies) shall be equal to the estimated completed replacement value of all buildings, structures, additions, machinery, and equipment.

C. With respect to any casualty due to Named Storms, the sublimit of coverage including soft costs, interest expense and delayed opening loss of income or rents (if any) shall be in an amount of \$50,000,000.00.

D. The limit of coverage for the perils of Flood and Earthquake shall be at least \$50,000,000 per occurrence. However, if insurance market conditions are such that purchase of the minimum \$50,000,000 is commercially impracticable, lower limits mutually agreeable to the Owner and City will be acceptable.

E. The Property/Builder's Risk Policy (ies) shall include Owner and City as additional insureds and shall contain a waiver(s) of subrogation in favor of the foregoing entities. Owner and City shall be named as loss payees as their interests may appear.

F. The maximum deductible for other than Named Storm, Flood, or Earthquake shall be \$100,000 per occurrence. The deductible per occurrence for Named Storm, Flood or Earthquake shall be \$500,000.00 per occurrence. The Construction Manager shall pay on behalf of Owner and City, as a Cost of the Work, any such deductible. An Allowance of one dollar within the GMP will be established for deductibles hereunder. If an Allowance is not used all Savings will revert to the Owner.

G. The Property/Builder's Risk Policy will include Partial Occupancy/Permission to Occupy Coverage.

H. Construction Manager may use Builder's Risk insurance proceeds which are properly payable to the Construction Manager for covered property damage caused by an occurrence. Provided, however, Owner shall be entitled to receive proceeds from the Builder's Risk insurance policy that are payable for Owner's soft costs, liquidated damages, interest and expenses or loss of income arising from an occurrence.

I. With the exception of City-Furnished Materials, the Construction Manager shall be responsible for paying any losses, including losses and defense costs with respect to claims against Owner, Owner's Representative, or City, and their respective officials, officers, or employees, within the amount of any deductible or self-insured retention of any of the policies issued pursuant to this Exhibit C, which payment shall be a Cost of the Work. The foregoing notwithstanding, the Construction Manager shall not be responsible for paying any loss sustained by the Owner or City due to a delay in opening caused by a Force Majeure Event that would otherwise be covered by the delay in completion endorsement to the Builder's Risk insurance but for the fact that such loss is sustained during the "waiting" or "deductible" period upon which such endorsement is conditioned (provided such "waiting" or "deductible" period does not exceed thirty (30) days unless approved otherwise by the Owner and City).

1.4.7 Risk of Loss.

A. Notwithstanding any provision in this Agreement to the contrary, except with respect to tangible personal property purchased by the City for the purpose of receiving a tax exemption under Section 212.08(6), Florida Statutes, if any, the risk of loss with respect to the Work shall remain with the Construction Manager until Substantial Completion, subject to the limitations (a) in Section 1.4.6 above, and (b) that Construction Manager's liability will not exceed the amounts available for repair or replacement or repayment under 1.4.7 C. below from the insurance policies maintained hereunder.

B. The City shall retain the risk of loss of and damage to City-Furnished Materials including the responsibility of paying deductibles thereon for the purpose of receiving a tax exemption under Section 212.08(6), Florida Statutes, which meets the criteria in Rule 12A-1.094(4)(b) 1-4, F.A.C. to determine if the City is the purchaser for the purpose of the tax exemption under Section 212.08(6), Florida Statutes.

C. The City shall be solely entitled to the proceeds paid and attributable to damage or loss to City-Furnished Materials under the Property/Builder's Risk

Policy (ies), and such proceeds shall be used by the City to fulfill its obligations to replace the damaged or destroyed City-Furnished Materials.

1.4.8 Construction Manager's Insurance Primary. The insurance provided by the Construction Manager pursuant to this Agreement shall be primary to any other insurance or self-insurance maintained by Owner, Owner's Representative, or City or any of their officials, officers or employees which shall be in excess of and not contributing with the insurance provided by or on behalf of the Construction Manager.

1.4.9 Construction Manager's Insurance As Additional Remedy. Except as set forth in this Exhibit C, compliance with the insurance requirements of the Agreement shall not limit the liability of the Construction Manager or its Subcontractors, employees or agents, to the Owner or City; and any remedy provided to the Owner or City or its elected or appointed officials or employees by the insurance required hereunder shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise.

1.4.10 No Waiver by Approval/Disapproval. Neither approval by the Owner, Owner's Representative, and City nor failure to disapprove the insurance furnished by the Construction Manager shall relieve the Construction Manager of the Construction Manager's full responsibility to provide the insurance as required by this Agreement.

1.4.11 Transition from Builder's Risk Coverage. Owner shall, after expiration of the Builder's Risk Policy at Substantial Completion, provide property insurance covering the Work and when completed the Project. Owner waives all rights of subrogation against the Construction Manager, its subcontractors and suppliers with respect to losses or claims covered by Owner's property insurance.

1.4.12 Mutual Waivers of Subrogation. Owner and Construction Manager agree on behalf of themselves and any insurance carrier providing insurance coverage pursuant to this Exhibit C to waive any claim for subrogation to the extent of any payment under any policy procured by or on behalf of Owner or Construction Manager. This mutual waiver of subrogation is intended to apply to Owner, City, Owner's Representative, and any and all Subcontractors or suppliers of any tier providing labor, materials or equipment to the Project. Construction Manager shall include in its form Subcontract Agreement for this Project a clause requiring each of its Subcontractors to waive any rights of subrogation against Owner, City, Construction Manager, Owner's Representative, and Subcontractors and suppliers of any tier providing labor, materials or equipment to the Project. Construction Manager's form of Subcontract shall also require each Subcontractor to include in any Subsubcontract Agreement a flow-down clause requiring the Subsubcontractor to waive subrogation rights in the same manner that the Subcontractor has waived subrogation rights in its agreement with the Construction Manager.

EXHIBIT D - DISPUTE RESOLUTION PROCEDURE

I. PROCEDURES.

1. **Prompt Notification.** With respect to any Claim, prompt notice thereof shall be given pursuant to Section 12.3.1 of the General Conditions (as to claims by Construction Manager) and within fourteen (14) days of the event giving rise to the Claim as to claims by Owner, and a record thereof shall be made in the monthly Progress Report. At the next Project meeting following delivery of the notice under 12.3.1 of the General Conditions or after notice by Owner pursuant to the preceding sentence, Construction Manager and Owner shall reserve time at the end of such Project meeting to attempt to resolve such Claim at the field level through discussions between a member of Construction Manager's on Site senior Project management, Owner and Owner's Representative, as applicable. If a Claim cannot be resolved through Construction Manager's Senior Project Manager, Owner and Owner's Representative, as applicable, within fourteen (14) days after the initial attempt, then, Construction Manager's Senior Representative (who is _____) and Owner's Senior Representative (who is _____), upon the request of either party, shall meet as soon as conveniently possible, but in no case later than fourteen (14) days after such a request is made, to attempt to resolve such Claim. Prior to any meetings between the parties, the parties shall exchange relevant information that will assist the parties in resolving their Claim. If a party intends to be accompanied at a meeting by an attorney, the other party shall be given at least ten (10) days' notice of such intention and may also be accompanied by an attorney.
2. **Payment Continuation for Work Performed.** In the event of any dispute arising by or between Owner and Construction Manager, including Construction Manager's Architect and Subcontractors, Suppliers, or any of them, and conditioned upon Owner continuing to pay all undisputed amounts owed, including those undisputed amounts associated with the subject dispute, each party shall continue to perform as required under the Contract Documents notwithstanding the existence of such dispute. In the event of such a dispute, Owner shall continue to pay Construction Manager as provided in the Contract Documents, excepting only such amount as may be disputed.
3. **Attorney Fees and Costs.** In any dispute between Owner and Construction Manager, the prevailing party in any litigation shall be awarded its reasonable attorneys' fees and costs, in addition to any other damages or other amounts to which it may be entitled.

II. RESOLUTION PROCESS.

1. **Non-binding Mediation.** If, after meeting, the Senior Representatives determine that the Claim cannot be resolved on terms satisfactory to both parties, the parties shall, within fourteen (14) days after the meeting of the Senior Representatives,

submit the Claim to non-binding mediation administered jointly by the parties to the mediation and otherwise in accordance with the Construction Industry Claim Resolution Procedures of the American Arbitration Association (AAA) then in effect. The mediation shall take place in Orange County, Florida. Within seven (7) days after the selection of an alternate mediator or within fourteen (14) days of request for Mediation, the parties and the mediator shall participate in a pre-mediation conference to determine the time and place within Orange County, Florida of the mediation and the procedures that will govern the mediation. The cost and expense of the mediator shall be equally shared by the parties and each party shall submit to the mediator any information or position papers that the mediator may request to assist in resolving the Claim. The parties will not attempt to subpoena or otherwise use as a witness any person who serves as a mediator, will assert no claims against the mediator as a result of the mediation, and will hold the mediator harmless from claims by third parties arising out of or relating to the mediation provided for in this Section. Notwithstanding anything in the above to the contrary, if a Claim has not been resolved within sixty (60) days after the initial meeting between Construction Manager's project manager and the Owner, then either party may elect to proceed under Section 2 below.

.1 Construction Manager and Owner agree that a mutually acceptable person will be selected for any mediation of a Claim.

2. **Litigation.** Unless the parties otherwise agree, if a Claim has not been settled or resolved within sixty (60) days after the initial meeting of Construction Manager's project manager and Owner and the Owner's Representative, as applicable, then either party may pursue its claim by litigation in a court of competent jurisdiction located in Orange County, Florida. Each of the parties waive its respective right to a jury trial in such litigation.

EXHIBIT E – BLUEPRINT MBE/WBE REQUIREMENTS

1.1 Contracting and Construction Initiatives.

1.1.1 Pre-Construction Business Opportunity Meeting.

Pursuant to the City-OPAC Agreement and as set forth in the Agreement, the Owner shall require the Construction Manager to comply with the minority business enterprise and women-owned business enterprise requirements of Chapter 57 of the City of Orlando Code, make good faith efforts to meet the participation goals, and cooperate with the City and Owner in their local business economic development efforts and in the City’s “Blueprint for Using Community Venues to Create a Sustainable Economic Impact” business economic development efforts. Prior to the establishment of the GMP, the Construction Manager shall hold a minimum of two (2) local community forum(s) in coordination with the Owner and City at a location, date and time mutually agreed upon, to inform local contractors, trade professionals, suppliers, workers and other interested parties of potential business and employment opportunities and to help foster and develop new local business relationships.

1.1.2 Contracting Obligations.

The Construction Manager shall:

(i) comply with the terms of the community impact plan (the “Community Impact Plan”) which the Construction Manager submitted as part of its Proposal in response to DPC’s solicitation; use good faith efforts to comply with the requirements of Chapter 57 of the City’s Code of Ordinances in connection with the performance of services and Work on the Project, including: (a) meet the goal that eighteen percent (18%) of the aggregate monetary value of the Agreement be awarded to MBE and six percent (6%) of the aggregate monetary value of the Agreement be awarded to WBE, and (b) achieve aggregate group employment levels for minorities and women employed by the Construction Manager and all subcontractors at all tiers of eighteen percent (18%) and six percent (6%), respectively;

(ii) comply and require the subcontractors to comply with the Living Wage Policy set forth in Section 161.3(4)(F) of the City’s Policies and Procedures in effect as of the date of the Agreement (the “Policies”) with respect to the construction of the Project;

(iii) comply and require all subcontractors at all tiers, subject to 1.1.2 (ii) above, to comply with the City’s Construction Policy for Public Works Department construction agreements set forth in Section 2510.8(4)(C) of the Policies in the construction of the Project, by paying workers on the construction of the Project an hourly wage, based on classification, for the Orlando region established by the Davis-Bacon Act (40 U.S.C. 276a-7) as supplemented by the Department of Labor regulations (29 CFR part 5), and to provide said workers with health benefits in the manner established by such Section 2510.8(4)(C) of the Policies; and

(iv) comply and require the first tier subcontractors to use good faith efforts each to employ on the construction of the Project a minimum of one (1) apprentice or trainee for each nine (9) journeymen and/or laborers it employs on the Project. For purposes of this section

1.1.2(iv): (x) “apprentice” shall be defined as provided in Section 446.021(2), Florida Statutes; (y) “trainee” shall be defined as any person in a trainee program (or a graduate thereof) approved by the City, such program consisting of on-the-job training (which may be supplemented by educational instruction) for construction employment classifications appearing in the Davis Bacon wage schedules except for those classifications denoted as “helper”; and (z) “apprenticeable/trainee occupation” shall mean any of the following trades, which may be supplemented as mutually agreed upon by the Construction Manager and the Owner (with the City’s consent): air conditioning/HVAC worker, carpenter, electrician, elevator contractor, glazier, ironworker, mason, operating engineer, painter, pipe fitter, plumber, sheet metal worker, sprinkler fitter, equipment operator, drywall hanger/finisher, or laborer who is a trainee; and

(v) comply and require the first and second tier subcontractors to use good faith efforts to comply with the City’s “Blueprint Workforce Development Program” hiring program as set forth in this section 1.1.2(v). The City’s “Blueprint Workforce Development Program” hiring program requires the Construction Manager and the first and second tier subcontractors to provide at least three (3) Business Days' notice and listing of all job openings on the Project to the Blueprint Employment Office (“BEO”) (except in the event of an emergency requiring a job opening to be filled within twenty-four (24) hours) prior to making a hire for the job opening). Such notice shall be submitted in a format reasonably acceptable to the City, and the foregoing notice shall provide a listing of all job openings by title together with a clear and concise description of the job responsibilities and qualifications, including expectations, salary, work schedule, duration of employment and any special requirements (e.g., language skills, driver’s license, etc.) for each job. The Construction Manager and the first and second tier subcontractors shall consider in good faith all resumes and applications received from the BEO meeting the requirements provided and shall not unreasonably refuse to consider an application from an ex-offender. Temporary staffing firm(s) (“Temp” or “Temps”) shall not be used to provide construction labor on the Project. Notwithstanding anything in this section 1.1.2(v) to the contrary, however, the Construction Manager and the first or second tier subcontractors shall not be deemed to be acting in bad faith if the terms and conditions of any union contract or union agreement to which the Construction Manager or any such subcontractor is/are bound prevent or impair the Construction Manager or any such subcontractor from complying with the terms and conditions of this section 1.1.2(v), but only to the extent such union contract or union agreement is applicable to hiring in Orange County, Florida and prevents or impairs compliance with this section 1.1.2(v). The Construction Manager and the first and second tier subcontractors shall use good faith efforts to provide to the BEO prompt notice of termination or layoff of employees to facilitate BEO’s ability to assist such individuals with new employment. The Construction Manager shall use the E-Verify internet-based system operated by the United States Department of Homeland Security to determine employment eligibility of all new employees hired by the Construction Manager after the Effective Date of the Agreement, and shall require all subcontractors to use the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of their subagreement.

1.1.3 Non-Compliance.

In addition to and not in derogation of any and all other remedies available to the Owner and the City at law or in equity or under the Agreement, the Owner and the City may impose, in

good faith, the following consequences for the failure of the Construction Manager and all applicable tiers of those furnishing labor and/or materials to the inclusive, above: (i) withholding approval and payment, either in full or in part, of a pro rata percentage of any Applications for Payment based on the amount set forth in the following paragraph; (ii) withholding retainage; or (iii) terminating the applicable contract.

In addition to and not in derogation of any and all other remedies available to the City at law or in equity or under the Agreement, for the failure of the Construction Manager or the failure of any subcontractor to comply with the requirements of 1.1.2(v) above, the City may impose the following fines: (a) for a second (2nd) violation, a fine of \$1,000.00; (b) for a third (3rd) violation, a fine of \$2,000.00; (c) for a fourth (4th) violation, a fine of \$5,000.00; and (d) for a fifth (5th) and all additional violations, a fine of \$10,000.00 per violation (together, the “Fines”). In connection with a violation under Article 1.1.2(v), any violation relating to each individual job opening shall constitute a separate incident and violation.

1.1.4 Reporting. (NOTE: SYSTEM is an online database reporting, that goes directly to City.)

Commencing thirty (30) days after the date of the Agreement and continuing until the date of Substantial Completion, the Construction Manager shall utilize the City’s online database reporting system to submit to the City a consolidated monthly report outlining the Construction Manager’s, and its subcontractors’ at all applicable tiers, compliance with section 1.1.2(i) through (iv) above, in such form and content as may be reasonably required by the City. The Owner’s Representative will be provided access to the monthly reports submitted by the Construction Manager on the City’s online reporting system. The Construction Manager shall report its compliance (and the compliance of all of the subcontractors at all applicable tiers) with the requirements of section 1.1.2(v) above regarding the City’s “Blueprint Workforce Development Program” in the manner set forth in section 1.1.11 below. The Construction Manager and the subcontractors at all applicable tiers shall respond to and comply with reasonable requests from the Owner and the City for supplemental information relating to the reporting requirements of this section 1.1.4.

1.1.5 Identification of Anticipated Subcontracting Needs.

Within thirty (30) days after the date of the Agreement, the Construction Manager shall provide to the Owner and the City a list of anticipated subcontracts for the Project by type of work to be performed, the anticipated dollar value range (plus or minus 10%) of such subcontracts, the estimated time frame for award of such subcontracts, and the name of the anticipated subcontractor, if known. Thereafter, the Construction Manager shall update such initial estimates and provide such updates to the Owner and the City on a monthly basis through the date of Substantial Completion. The Construction Manager shall in good faith provide to the Owner and the City with as much advance notice of subcontracting needs as reasonably possible. Except in the case of an emergency threatening loss of life or property damage, or as otherwise reasonably agreed in writing by the Owner and the City, the Construction Manager shall not award any subcontract of a type which is not reflected in the then-current list of subcontracts provided to the Owner and the City pursuant to this section 1.1.5.

1.1.6 Subcontracting Opportunities for MBE and WBE.

Prior to the award of any subcontracts and thereafter as reasonably requested by the Owner and the City, the Construction Manager shall work in good faith with the Owner and the City to identify opportunities to unbundle large subcontracts with the goal of increasing the opportunity for MBE and WBE to obtain subcontracts. At a minimum, the Construction Manager shall award, or in the aggregate with all of its subcontractors of any tier, to award, at least (5) subcontracts with a value not to exceed One Hundred Thousand Dollars (\$100,000.00) each. Within thirty (30) days of the date of the Agreement, the Construction Manager shall submit a plan to the Owner and the City outlining the Construction Manager's commitment and action plan for meeting the minimum requirements set forth herein. Thereafter, not less frequently than monthly commencing at least thirty (30) days prior to submission of the GMP, the Construction Manager shall provide a status update on the implementation of the plan to the Owner and the City reflecting the Construction Manager's progress in meeting the foregoing requirements. Such updates also shall reflect any modifications to the Construction Manager's plan for meeting the foregoing requirements.

1.1.7 Award of Subcontracts.

The Construction Manager shall provide to the Owner and the City on a monthly basis, a report containing the names, estimated dollar value range (plus or minus 10%) and scope of work of all tier subcontracts awarded by the Construction Manager and its subcontractors for work on the construction of the Project during the preceding month, to permit the Owner and the City to monitor compliance with this Exhibit.

1.1.8 Identification of Employment Opportunities.

Within thirty (30) days after the date of the Agreement or other time mutually agreeable to the Parties, the Construction Manager shall meet with the Owner and the BEO to identify employment needs for the construction of the Project. Thereafter the Construction Manager shall update such initial estimate and provide such updates to the Owner and the BEO on a monthly basis.

1.1.9 Community Employment Opportunities Meetings.

It is possible that the BEO will hold one or more meetings prior to and during the construction of the Project to advise the local community of the anticipated schedule of construction, the manner of applying for jobs, and the hours and location of area job centers. The Construction Manager shall attend and participate in such community meetings at locations, dates and times established by the mutual agreement of the Construction Manager, Owner, and the City. These meetings are in addition to the meeting(s) described in section 1.1.1.

1.1.10 On-Site Employment Information.

The Construction Manager shall have on the Project site documentation informing interested persons how they may obtain instructions and/or directions pertaining to submission of an application for employment in connection with the Project to the BEO.

1.1.11 Employment Reporting.

The Construction Manager shall obtain from its first and second tier subcontractors, on a monthly basis, reports detailing said subcontractors' compliance with the "Blueprint Workforce Development Program" as set forth in this Exhibit. The Construction Manager shall incorporate information regarding the Construction Manager's compliance with the "Blueprint Workforce Development Program" as set forth in this Exhibit and consolidate the subcontractors' reports and its own information into a reporting form reasonably acceptable to the Owner and the City. The Construction Manager shall submit said consolidated report to the Owner and the City on a monthly basis. Said consolidated report at a minimum shall include the following information and such other information as may be reasonably requested by the Owner and the City in a format reasonably required by the Owner and the City:

(i) the percentage of job openings on the construction of the Project that have been filled by referrals from the BEO;

(ii) a breakdown by job title of each job opening and whether it was filled by a referral from the BEO;

(iii) for each job opening filled by a referral from the BEO, whether the person is still employed as of the date of the report;

(iv) descriptions and numbers of jobs that are anticipated to become available in the future, if known, and an estimated timetable for availability of such jobs (reported on a monthly basis pursuant to section 1.1.8 above);

(v) any difficulties the Construction Manager and the subcontractors are having with obtaining qualified referrals through the BEO;

(vi) for temporary workers provided by a Temp, the names of workers and their job descriptions, their wages and hours worked, and the name of the subcontractor for which the labor was performed; and

(vii) any updates to the Construction Manager's initial estimate and timetable for anticipated employment needs originally provided pursuant to section 1.1.8 above.

1.1.12 Oversight Committee.

The City has created a venues oversight committee ("Mayor's Community Venues Oversight Committee" or "CVOC") to provide public oversight and review of the Community Venue projects, which include the Project. The CVOC scope of responsibility includes monitoring compliance with the terms of this Agreement in the construction of the Project including, but not limited to, compliance with this Article. The Construction Manager agrees to cooperate in good faith with information requests from the CVOC and, upon the reasonable request of the Owner and City, attend meetings of the CVOC.

1.2 Certification and Rules of Application.

1.2.1 Certification.

For purposes of the Agreement and this Exhibit: (i) a “Minority Business Enterprise” or “MBE” shall mean a Person certified or recognized as a minority business either by the City pursuant to Chapter 57 of the City Code or by the County pursuant to reciprocity granted by the City in accordance with Chapter 57 of the City Code; and (ii) a “Women-Owned Business Enterprise” or “WBE” shall mean a Person certified or recognized as a women-owned business either by the City pursuant to Chapter 57 of the City Code or by the County pursuant to reciprocity granted by the City in accordance with Chapter 57 of the City Code.

1.2.2 Commercially Useful Function/Independence.

An MBE or WBE shall be considered to perform a “commercially useful function” when it is responsible for the performance of a defined and distinct scope of Work within its area of certification. Each MBE and WBE shall be expected to perform, manage and supervise a meaningful portion of the Work contemplated for its subcontract, purchase order or other agreement through the use of its own employees and equipment.

1.2.3 Employment Agreements.

An employment contract or employment agreement between an individual person and any firm, company, corporation or other person which employs such individual person shall not be deemed a subcontract for the purposes of this Exhibit.

1.3 Miscellaneous.

1.3.1 Submissions.

Any and all designs and other submissions required by this Exhibit shall be in addition to, and not in replacement of, any and all other submissions required by the Agreement or applicable law, including any and all necessary submissions for permits.

1.3.2 Subcontracts.

The Construction Manager shall require that all contracts between the subcontractors and subcontractors at all tiers be in writing. The Construction Manager shall include language in its written agreements with subcontractors requiring compliance by subcontractors of all tiers with the requirements of this Exhibit to the extent that such requirements are applicable to such subcontractors.

1.3.3 Interpretation.

The terms and conditions of this Exhibit shall control in the event of any direct conflict between the terms and conditions of this Exhibit and the provisions of the Community Impact Plan. Notwithstanding the preceding, in the event that the provisions contained in the Community Impact Plan set forth additional obligations to those found herein or more stringent requirements for the same activities than required herein, the Construction Manager shall perform such additional requirements together with the requirements of this Exhibit and shall perform any duplicative obligations to the more stringent standard.

1.3.4 Third Party Beneficiaries.

The City is an intended third party beneficiary of the Agreement. In addition to its right to proceed with an Enforcement Action under Article 2.2 of the Agreement, the City shall have the right to enforce the related Blueprint and MBE/WBE requirements in accordance with Chapter 57 and this Exhibit. There shall be no other third party beneficiaries of the Minority Business Enterprise or Women Owned Business Enterprise provisions of this contract. The City of Orlando shall have the exclusive means of enforcement of the M/WBE Ordinance and related Agreement terms. No right of action for non-signatories of the Agreement is intended or implied. The City of Orlando is the sole judge of compliance and whether a good faith effort has been made under the Ordinance and the Agreement.

1.3.5 No Discrimination.

Firms must ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, national origin, sexual orientation, age, or disability.

1.3.6 Representatives.

The Construction Manager shall, within ten (10) days of execution of the Agreement, provide the Owner with the name and contact information for a person employed by or under contract with the Construction Manager who will serve as the point of contact with the Owner with respect to all matters set forth in this Exhibit. From time-to-time thereafter, the Construction Manager may change or replace such person upon three (3) days' prior written notice to the Owner. The Owner's point of contact to the Construction Manager pertaining to this Exhibit is the Owner's Representative. The Owner Representative's point of contact to the City pertaining to this Exhibit is the CCR and the Blueprint Special Projects Manager.

Exhibit E-1 – Community Impact Plan

The Construction Manager's Project Specific Community Impact Plan to be completed per the guidelines of the Contract and incorporated with the GMP Amendment.

EXHIBIT F - PERMITTING FEES

To Be Paid By Construction Manager

- All construction permit, license and inspection fees, including fees related to those permits customarily obtained by Construction Manager's subcontractors, other than those specifically identified below to be paid by Owner
- Fees associated with overtime inspections
- Dewatering Permits

To Be Paid By Owner as Project Cost

- Primary Building Permit, including Foundation and Structural Work
- Primary Engineering Permit
- Health Department Permits
- Plan Review Fees related to Owner paid permits
- Impact Fees—including Sewer Benefit fee, Transportation Impact fee, Orlando Utilities Commission (Water, Electric, or Chilled Water Connection fees), as applicable
- Land Development, Planning/Re-Zoning and Appearance Review fees
- Development related Environmental Permit Fees—including Water Management District, Florida Department of Environmental Regulation permits
- Site Environmental Testing and Remediation related Permit Fees, if any
- Site clearing permit fees, sewer/utility disconnect fees, tree removal permit fees and other related site prep
- All permit and other associated fees relating to work being carried out directly by the Owner.

EXHIBIT G - PROCEDURES FOR CITY-FURNISHED MATERIALS

I. CITY-FURNISHED MATERIALS OVERVIEW AND RESPONSIBILITIES.

1. The City may acquire or purchase construction materials for incorporation into the Project as part of the Work (the "City-Furnished Materials"). The responsibilities of the Owner, CCR, City, and Construction Manager relating to such City-Furnished Materials shall be governed by the terms and conditions of this Exhibit. The purchase of City-Furnished Materials shall apply toward the Project MBE/WBE goals.
2. The Parties acknowledge and agree that the Parties intend to acquire City-Furnished Materials to the extent allowed by Applicable Law, and accordingly, the City, Owner and Construction Manager shall cooperate in good faith to structure and/or modify the procedures set forth in this Exhibit for the acquisition of such City-Furnished Materials to the extent reasonably necessary to achieve the foregoing intent.
3. The Construction Manager shall purchase and maintain builders risk insurance to protect against any loss of or damage to City-Furnished Materials in accordance with **Exhibit C** of the General Conditions.
4. Except to the extent the same is caused by or results from the failure of the Owner or City to perform its obligations under this Exhibit, the Owner or City shall in no way be liable for any interruption or delay in the Work, or for any extra Project costs, resulting from any delay in the delivery of City-Furnished Materials. Further, the Owner or City shall not be liable for defects in the City-Furnished Materials, or for additional Project costs associated with defects in the City-Furnished Materials, on account of (or resulting from) the City's acquisition and purchase of such City-Furnished Materials as provided in this Exhibit.
5. The City shall directly pay all Suppliers with respect to City-Furnished Materials purchased by the City. Each Payment Request for City-Furnished Materials, approved by the Construction Manager and approved and submitted by the Owner's Representative to the City relating to City-Furnished Materials shall include the following: (i) a copy of the applicable pricing quote as receiving report, (ii) copies of the delivery tickets, (iii) written acceptance of the delivered items by Construction Manager, and (iv) such other documentation as may be reasonably required by the Owner's Representative, in consultation with the CCR. Upon receipt of the appropriate documentation, the City shall pay such invoice directly to each Supplier.
6. The procedures set forth in this Exhibit for City-Furnished Materials are intended to comply with the requirements of the Florida Department of Revenue for the direct purchase of materials by governmental entities for use in Public Works Contracts set forth in Section 12A1.094 of the Florida Administrative Code, as

amended. Under no circumstances shall any City-Furnished Materials that will not be incorporated into the Work be purchased by the City as City-Furnished Materials, including any consumables such as fuel or any equipment related to the Work that will not be affixed or otherwise incorporated into the Work such as reusable construction equipment.

II. CONSTRUCTION MANAGER RESPONSIBILITIES.

1. Except as expressly stated herein, Construction Manager shall be fully responsible for all matters relating to the procurement of City-Furnished Materials incorporated into the Work in accordance with the this Exhibit, including assuring the correct quantities, verifying documents and the delivery of Requisition Forms to the Owner in a timely manner in accordance with the Project Schedule, assuring coordination of purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, and inspection and acceptance of the City-Furnished Materials at the time of delivery. The City and the CCR shall perform their obligations (including the placement of all Purchase Orders for City-Furnished Materials) in a timely and expeditious manner consistent with this Exhibit and the Project Schedule (and the Parties acknowledge and agrees that the City's and the CCR's timely and proper performance and satisfaction of their obligations with respect to City-Furnished Materials will have a direct and material impact on the ability Construction Manager to perform its obligations with respect to the City-Furnished Materials under the Contract Documents). The Owner and Construction Manager each shall perform its obligations (including the delivery of Requisition Forms) in a timely and expeditious manner consistent with the Agreement, this Exhibit and the Project Schedule (and the Parties acknowledge and agree that Owner and Construction Manager's timely and proper performance and satisfaction of their obligations with respect to City-Furnished Materials will have a direct and material impact on the ability of the Owner and City to perform its obligations with respect to City-Furnished Materials under the Agreement and this Exhibit), Construction Manager shall coordinate delivery locations and schedules, sequence of delivery, loading orientation, and other arrangements normally required by Construction Manager for the particular City-Furnished Materials. Construction Manager shall provide all services required for the unloading, handling and storage of City-Furnished Materials through installation. The City assumes the risk of loss of City-Furnished Materials from the time title to such City-Furnished Materials passes from the Supplier upon delivery of such City-Furnished Materials to the Site (or to any other storage area or "laydown" area used in connection with the Project) (i.e., Free On Board Destination pursuant to Section 672.319, Florida Statutes).
2. Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all City-Furnished Materials in the same manner and on the same terms as other materials obtained by Construction Manager for the Work. All repair, maintenance or damage-repair calls with respect to such City-Furnished Materials shall be forwarded by Owner to Construction Manager

for resolution with the appropriate Supplier or Subcontractor. Construction Manager shall undertake all warranty enforcement against the appropriate Supplier or Subcontractor for all such City-Furnished Materials. Additionally, all City-Furnished Materials shall be warranted and guaranteed by Construction Manager as part of the warranty and guarantee of the Work. Construction Manager's warranty and guarantee duties shall be governed by and carried out pursuant to the terms of the Contract Documents. Construction Manager shall make no distinction in discharging such warranty and guarantee duties and obligations between City-Furnished Materials and equipment and materials otherwise supplied by Construction Manager. Provided, however, Construction Manager's obligations under this Paragraph shall be conditioned upon the City assigning to Construction Manager the applicable City's warranty and other contract rights under the applicable Purchase Orders and the City not having waived or otherwise adversely impaired such warranty and other contract rights under any such applicable Purchase Orders.

3. Notwithstanding the delivery or transfer of City-Furnished Materials to Construction Manager or to the Site (or materials staging/laydown area) for their incorporation by Construction Manager into the Work, the City shall retain legal and equitable title to any and all City-Furnished Materials. The transfer of possession of City-Furnished Materials from the City to Construction Manager shall constitute a bailment for the mutual benefit of the City, the Owner and the Construction Manager. The City shall be considered the bailor and Construction Manager the bailee of the City-Furnished Materials. Transfer of possession shall be deemed to occur immediately and automatically upon delivery of City-Furnished Materials to Construction Manager without notice from City to Construction Manager. City-Furnished Materials shall be considered returned to the City for purposes of their bailment at such time as they are incorporated into the Work. While in Construction Manager's possession, Construction Manager shall handle and store all City-Furnished Materials in a manner consistent with the Supplier's or manufacturer's instructions regarding handling and storage to ensure later installation of City-Furnished Materials in a sound and undamaged condition.
4. Salvaged City-Furnished Materials shall be stored or removed from the Site at the City's direction, , or may be turned over to the Owner or Construction Manager by the City,, for salvage or disposal, at the City's discretion.

III. CITY-FURNISHED MATERIALS PURCHASE ORDER PROCEDURES.

1. Construction Manager shall provide to the Owner's Representative and CCR, at least five (5) days prior to submission of the first Requisition Form (as defined in Paragraph 111.2 below), with a list of all intended Suppliers for City-Furnished Materials for procurement by the City as City-Furnished Materials (which list shall be updated monthly by Construction Manager). The list shall include price quotes from the Suppliers, as well as a description of the City-Furnished Materials

to be supplied, estimated quantities and prices. The City shall use the listed Suppliers (provided, however, that Construction Manager shall not use any Supplier the use of which is prohibited by, or would be a violation under, Applicable Law).

2. From time to time, Construction Manager will prepare a purchasing request requisition form (the "Requisition Form") which shall, in form and detail reasonably acceptable to the Owner's Representative and CCR, specifically identify the City-Furnished Materials that the City will purchase directly as City-Furnished Materials. The Requisition Form shall include:
 - .1 Name, address, telephone number and a contact person for the material Supplier;
 - .2 Manufacturer or brand, model or specification number of the item;
 - .3 Quantity needed as estimated by Construction Manager;
 - .4 Price quoted by the Supplier for the City-Furnished Materials identified;
 - .5 Sales tax associated with such purchase;
 - .6 Delivery dates as established by Construction Manager;
 - .7 Shipping, handling and insurance costs (if any);
 - .8 Details concerning any bonds or letters of credit provided by the Supplier if included in such Supplier's proposal;
 - .9 Special terms and conditions which have been negotiated with the Supplier relative to payment, discounts, rebates, warranty, credits or other terms and conditions; and
 - .10 Such other information as may reasonably be requested by the Owner's Representative or CCR.
3. Construction Manager shall include copies of Suppliers' pricing quotes and specifically reference any terms and conditions which have been negotiated with them concerning letters of credit, terms, discounts, schedules, warranties or special payments.
4. Within two (2) Business Days after receipt thereof, the Owner's Representative shall forward each Requisition Form to the City. Within five (5) Business Days of receipt of a Requisition Form complying with the requirements of Paragraph III.2 above, the City shall review and approve the Requisition Form and issue a purchase order for the City-Furnished Materials described therein ("Purchase Order") to the applicable Supplier. The Purchase Order shall include the City's Consumer's Certificate of Exemption number and a copy of the Consumer's Certificate of Exemption and Certificate of Entitlement. The Purchase Order shall be sent directly to the Supplier by the City with copies thereof delivered to Owner and Construction Manager. Pursuant to the Purchase Order, the Supplier will provide the required City-Furnished Materials at the price established in the Supplier's pricing quote, excluding any sales tax associated with such price.

5. In conjunction with the issuance by the City of Purchase Orders for City-Furnished Materials, Construction Manager shall execute and deliver to the Owner's Representative one or more deductive Change Orders, referencing the full value of all City-Furnished Materials to be provided by each Supplier from whom the City purchases City-Furnished Materials, plus all sales taxes associated with such City-Furnished Materials.
6. Upon delivery of City-Furnished Materials as Construction Manager requested above, Construction Manager shall visually inspect all shipments from Suppliers and sign off on all receiving reports for City-Furnished Materials delivered or received. Construction Manager shall assure that each delivery of City-Furnished Materials is accompanied by delivery tickets or such other documentation as is adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and a copy of the invoice from the Supplier conforming to the Purchase Order together with such additional information as the Owner's Representative and the CCR may reasonably require. Construction Manager will match up the delivery ticket with the invoice for payment. The City shall be directly invoiced by the Suppliers for all City-Furnished Materials. Neither Owner nor Construction Manager shall pay invoices for City-Furnished Materials.
7. Construction Manager shall ensure that City-Furnished Materials conform to all specifications contained in the Contract Documents. Based upon its inspection of the City-Furnished Materials as they are delivered to the Site (or other materials staging/laydown areas) Construction Manager shall determine prior to incorporation into the Work if such City-Furnished Materials are patently defective and whether such City-Furnished Materials are the same as the materials ordered and match the description on the bill of lading. If Construction Manager discovers defects or non-conformities in City-Furnished Materials upon such visual inspection, Construction Manager shall not utilize such nonconforming or defective City-Furnished Materials in the Work and instead shall promptly notify the Owner's Representative and CCR of the defective or nonconforming condition so that repair or replacement of those City-Furnished Materials can occur without any undue delay or interruption to the Work. If Construction Manager fails to perform such inspection and otherwise incorporates into the Work such defective or nonconforming City-Furnished Materials, the condition of which it either knew or should have known by performance of an inspection, Construction Manager shall be responsible for all damages to the Owner and City resulting from Construction Manager's incorporation of such defective or non-conforming City-Furnished Materials into the Work.
8. Construction Manager shall maintain records of all City-Furnished Materials it incorporates into the Work. Construction Manager's monthly status reports to Owner shall identify any City-Furnished Materials delivered into Construction Manager's possession, indicating portions of all such City-Furnished Materials

that have been incorporated into the Work. The Owner shall provide a copy of the monthly status report to the CCR.

