



Bridge Factors Factual Report Attachment 66 – MCM’s Attachment Submission

Miami, FL

HWY18MH009

(23 pages)

Master Subcontract Agreement
executed by Structural
Technologies and MCM.



Master Subcontract Agreement

This AGREEMENT is entered into this 24 Day of October, 2016 by and between MUNILLA CONSTRUCTION MANAGEMENT, LLC d/b/a MCM hereinafter called CONTRACTOR, whose address is 6201 SW 70th Street, 2nd Floor, Miami, FL 33143 and STRUCTURAL TECHNOLOGIES, LLC FEDERAL ID NUMBER 52-2113986 hereinafter called SUBCONTRACTOR, whose address is 10150 Old Columbia Road Columbia, MD 21046-1274.

1. PURPOSE, SCOPE AND APPLICABILITY

CONTRACTOR and SUBCONTRACTOR are entering into this AGREEMENT with the intent and understanding that it will serve as a master agreement for all projects for which CONTRACTOR engages SUBCONTRACTOR, unless the parties expressly agree in writing to the contrary. Use of a master agreement will avoid the parties having to negotiate and execute a new, separate agreement for each project. Instead, for each project on which SUBCONTRACTOR is engaged, a WORK AUTHORIZATION FORM will be executed by both parties. The parties agree that this AGREEMENT, without further acknowledgement, signature, or agreement, will govern all projects for which a WORK AUTHORIZATION FORM is issued, regardless of the final amount payable to SUBCONTRACTOR for the projects in question.

This AGREEMENT does not create an agreement that CONTRACTOR will request, or that SUBCONTRACTOR will perform, WORK on any specific project. CONTRACTOR is under no obligation to hire SUBCONTRACTOR to perform work on any particular project. CONTRACTOR shall have no liability in the event that it does not hire SUBCONTRACTOR for a particular project. Should CONTRACTOR desire that SUBCONTRACTOR perform work on a project to which this AGREEMENT shall be applicable, it shall furnish a WORK AUTHORIZATION FORM to be executed by the parties.

The WORK AUTHORIZATION FORM will include terms, conditions, information and descriptions applicable to the specific project on which SUBCONTRACTOR is to perform work. The WORK AUTHORIZATION FORM shall also include information regarding name and address of OWNER and ARCHITECT; however, the omission of such information shall not affect the validity of the WORK AUTHORIZATION FORM. The WORK AUTHORIZATION FORM modifies and supplements the provisions contained in the AGREEMENT and all other documents incorporated therein by reference. In the event of any actual conflict, inconsistency or ambiguity between the terms and provisions of the WORK AUTHORIZATION FORM, on the one hand, and the AGREEMENT or any other CONTRACT DOCUMENTS, on the other hand, the WORK AUTHORIZATION FORM shall take precedence. In the event of any actual conflict, inconsistency or ambiguity between the terms of any other SUBCONTRACT DOCUMENTS OR CONTRACT DOCUMENTS, the more stringent shall take precedence. However, wherever possible the documents will be construed to avoid such a conflict. CONTRACTOR and SUBCONTRACTOR agree that SUBCONTRACTOR shall perform the WORK, as described herein, in accordance with the terms and conditions set forth in the CONTRACT DOCUMENTS. In the event CONTRACTOR fails to issue a WORK AUTHORIZATION FORM, or the WORK AUTHORIZATION FORM is not fully executed, any WORK performed by SUBCONTRACTOR at the request of CONTRACTOR shall nonetheless be governed by this AGREEMENT.

On any WORK AUTHORIZATION FORM, SUBCONTRACTOR shall contact CONTRACTOR's director of purchasing in writing to seek written confirmation from CONTRACTOR that the WORK is authorized. In the event that SUBCONTRACTOR fails to do so, and the WORK was not approved by a duly authorized officer of CONTRACTOR in writing, then SUBCONTRACTOR shall be deemed to have proceeded at its own risk and shall not be entitled to compensation and, to the extent permitted by law, to a mechanic's lien, or claim on any bond.

With the exception of Subcontract Agreements executed between Contractor and Subcontractor before the effective date of this AGREEMENT, this document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, proposals, stipulations, or agreements, either written or oral, including, without limitation, SUBCONTRACTOR's bid form or proposal. All prior or contemporaneous agreements to be included in this AGREEMENT are expressly identified herein. No agent or representative of either party has authority to make, and the parties shall not be bound by or liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments or modifications to the terms of this AGREEMENT shall be valid unless reduced to writing and signed by both parties.

For each project, but solely with regard to the project to which they relate, the terms "OWNER" and "ARCHITECT" shall mean the person(s) or entity(s) referred to on the WORK AUTHORIZATION FORM; the term "CONTRACT" or "PRIME CONTRACT" as used in the SUBCONTRACT DOCUMENTS shall mean the PRIME CONTRACT between OWNER and CONTRACTOR; the term "WORK" or "SUBCONTRACT WORK" as used in the SUBCONTRACT DOCUMENTS shall mean the SCOPE OF WORK as listed on the WORK AUTHORIZATION FORM. SUBCONTRACTOR acknowledges and agrees that it will read the PRIME CONTRACT between OWNER and CONTRACTOR and all CONTRACT DOCUMENTS defined therein and agrees that by signing the WORK AUTHORIZATION FORM SUBCONTRACTOR represents and warrants that it has read the PRIME CONTRACT between OWNER and CONTRACTOR and all CONTRACT DOCUMENTS. SUBCONTRACTOR agrees to be bound to and assume all of the obligations and responsibilities assumed by CONTRACTOR toward OWNER under the PRIME

CONTRACT, insofar as they are applicable to the WORK AUTHORIZATION FORM. In applying such obligations and responsibilities as set forth in the PRIME CONTRACT to CONTRACTOR, the term "OWNER" shall be substituted for the term "CONTRACTOR", as applicable and the term "CONTRACTOR" shall be substituted for the term "SUBCONTRACTOR".

This AGREEMENT expressly incorporates all those provisions required by law, by the PRIME CONTRACT to be incorporated and those which affect the rights of CONTRACTOR. Nothing in the SUBCONTRACT DOCUMENTS shall be construed to create a contractual relationship between persons or entities other than CONTRACTOR and SUBCONTRACTOR.

The "SUBCONTRACT DOCUMENTS" consist of (1) this AGREEMENT; (2) for each project for which a WORK AUTHORIZATION FORM is issued, and as to that project only, the specifications, plans and other relevant documents for the project, including the contract between OWNER and CONTRACTOR ("PRIME CONTRACT") and any other documents enumerated therein, including conditions of the contract (general, supplementary and other conditions), drawings, specifications, manuals, supplements, schedules, addenda issued prior to execution of the agreement between OWNER and CONTRACTOR and bulletins, RFI responses, and modifications issued subsequent to the execution of this AGREEMENT, and other CONTRACT DOCUMENTS, if any, listed in PRIME CONTRACT (collectively, the "CONTRACT DOCUMENTS"), with the exception of payment provisions contained therein; (3) other documents incorporated into this AGREEMENT or its attachments; (4) Modifications to this AGREEMENT issued after its execution; and (5) CONTRACTOR'S Safety Manual. These documents are incorporated into this agreement and are as fully a part of this AGREEMENT as if it were attached to this AGREEMENT or retyped herein.

Anything mentioned in the specifications and not shown on the plans or drawings, or shown on the plans and drawings and not mentioned in the specifications, shall be deemed shown and mentioned in both. For purposes of the provision below, the "project" refers to the project for which a WORK AUTHORIZATION FORM has been issued and consists of the entire construction to be completed by CONTRACTOR, as well as all work to be performed by SUBCONTRACTOR. The term "day" shall mean calendar day unless otherwise specifically designated. The term "SUBCONTRACT PRICE" shall mean the price for completion of all of SUBCONTRACTOR'S WORK with regard to a particular project for which a WORK AUTHORIZATION FORM has been issued.

2. SCHEDULE OF VALUES

Within TEN (10) calendar days from the date of execution of WORK AUTHORIZATION FORM, SUBCONTRACTOR shall prepare and submit to CONTRACTOR its proposed Schedule of Values apportioned to the various divisions or phases of the SUBCONTRACT WORK; the Schedule of Values shall be prepared in such detail as may be required by CONTRACTOR and must be supported by such documents and proof as CONTRACTOR may require, and shall include a separate line item for both close-out documentation and punch list items, each to which must be 100% completed and accepted by CONTRACTOR, OWNER, and/or ARCHITECT prior to release of any portion of the funds apportioned for same. There shall be no front loading of costs; each proposed line item must meet or exceed actual cost of that line item. After consultation between CONTRACTOR and SUBCONTRACTOR, each line item contained in the Schedule of Values shall be assigned a monetary price such that the total of all such items shall equal the SUBCONTRACT PRICE.

3. SUBCONTRACT PRICE, PROGRESS PAYMENTS AND FINAL PAYMENT

CONTRACTOR will pay SUBCONTRACTOR for the satisfactory performance of the WORK listed in the WORK AUTHORIZATION FORM, those amounts set forth in the WORK AUTHORIZATION FORM for the specific items or tasks set forth therein.

It is expressly agreed that any payment to Subcontractor for the work performed or materials or equipment furnished shall be made from funds received from Owner by Contractor with respect to Subcontractor's work. The making of all progress payments and the amount thereof are expressly subject to this condition precedent. Subcontractor states that it relies primarily on the credit and ability of Owner to pay and not upon Contractor's credit or ability, and further, expressly accepts the risk that it will not be paid for work performed by it in the event that Contractor, for whatever reason, is not paid by Owner for such work. The liability of Contractor's surety, if any, shall be subject to the same condition precedent.

It shall further be a condition precedent to any liability of CONTRACTOR or its Surety to SUBCONTRACTOR, its suppliers and its subcontractors for final or progress payments for any work performed by SUBCONTRACTOR on the project, that OWNER approve the portion of SUBCONTRACTOR'S WORK and agree that there are no deficiencies, back charges and/or liquidated damage assessments resulting from the performance of the scope of the work of this AGREEMENT.

- 3.1. **APPLICATIONS:** Subcontractor's applications for payments must be in Contractor's hands seven days prior to the billing cycle established between Contractor and Owner for orderly process of payment. SUBCONTRACTOR'S applications for payment shall be submitted notarized in CONTRACTOR'S form (see Contract Package) itemized and supported by the Schedule of Values and any other substantiating data as may be required by CONTRACTOR. As a pre-requisite for payment, SUBCONTRACTOR shall provide, in a form satisfactory to OWNER and CONTRACTOR, partial lien or claim waivers (see Contract Package) in the amount of the application for payment

and affidavits from SUBCONTRACTOR, and its subcontractors, material men and suppliers for the completed SUBCONTRACT WORK. Such waivers may be conditional upon payment. CONTRACTOR may reject a SUBCONTRACTOR Payment Requisition or nullify a previously approved SUBCONTRACTOR Payment Requisition, in whole or in part, as may reasonably be necessary to protect CONTRACTOR from loss or damage based upon: (a) SUBCONTRACTOR'S failure to perform pursuant to the SUBCONTRACT DOCUMENTS, including but not limited to those events described in Section 11.1 herein (b) loss or damage arising out of or relating to Subcontract and caused by SUBCONTRACTOR to OWNER, CONTRACTOR or others to whom CONTRACTOR may be liable; (c) reasonable evidence demonstrating that the unpaid balance of the Subcontract Price is insufficient to cover the cost to complete the SUBCONTRACT WORK; (d) third party claims involving SUBCONTRACTOR or reasonable evidence demonstrating that third party claims are likely to be filed unless and until SUBCONTRACTOR furnishes CONTRACTOR with adequate security in the form of a surety bond, letter of credit or other collateral or commitment which are sufficient to discharge such claims if established at the option of CONTRACTOR, and (e) SUBCONTRACTOR'S failure to update as-built drawings and provide closeout documentation. CONTRACTOR may, at its discretion, issue SUBCONTRACTOR checks payable jointly to SUBCONTRACTOR and third party claimants.

- 3.2. **RETAINAGE/SECURITY:** The rate of retainage shall be no less than the percentage retained from CONTRACTOR's payment by OWNER for the SUBCONTRACT WORK. If the CONTRACT DOCUMENTS provide for a reduction of retainage based upon a percentage of completion of the CONTRACT WORK, then CONTRACTOR shall also reduce SUBCONTRACTOR's retainage when SUBCONTRACTOR's approved application for payment has attained the same percentage of completion and CONTRACTOR's retainage is reduced. If there is no provision for retainage in the CONTRACT DOCUMENTS, CONTRACTOR may, at its discretion, require a rate of retainage not to exceed ten (10) percent. Notwithstanding the above, each progress payment and the final payment is subject to CONTRACTOR's withholding an amount interest free reasonably necessary to fully protect and insure itself against any actual or potential liability or damage directly or indirectly relating to the CONTRACT DOCUMENTS, or SUBCONTRACTOR's breach or threatened breach of any other contract between SUBCONTRACTOR and CONTRACTOR.
- 3.3. **PAYMENT USE AND VERIFICATION:** SUBCONTRACTOR is required to pay for all labor, materials and equipment used in the performance of the SUBCONTRACT WORK through the previous month's payment applicable to progress payments received from CONTRACTOR. Reasonable evidence, satisfactory to CONTRACTOR, may be required to show that all obligations relating to the SUBCONTRACT WORK are current before releasing any payment due on the SUBCONTRACT WORK. If required by CONTRACTOR, SUBCONTRACTOR shall submit evidence satisfactory to CONTRACTOR that all payrolls, bills for materials and equipment, and all known indebtedness connected with the SUBCONTRACT WORK have been paid or otherwise satisfied.
- 3.4. **PAYMENT NOT ACCEPTANCE:** Payment to SUBCONTRACTOR does not constitute or imply acceptance of any portion of the SUBCONTRACT WORK.
- 3.5. **STORED MATERIALS AND EQUIPMENT:** Unless otherwise provided in the SUBCONTRACT DOCUMENTS, requisitions for payment may include materials and equipment not incorporated into the SUBCONTRACT WORK but delivered to and suitably stored at the site if properly insured. Applications for payment may include materials and equipment delivered to and suitably stored off the site, if allowed under the CONTRACT DOCUMENTS and properly approved. Approval of payment requisitions for materials and equipment stored on or off the site shall be conditioned on submission by SUBCONTRACTOR of bills of sale and applicable insurance or such other procedures satisfactory to OWNER and CONTRACTOR to establish the proper valuation of the stored materials and equipment, OWNER's title to such materials and equipment, and to otherwise protect OWNER's and CONTRACTOR's interests therein, including transportation to the site. Payment for stored materials and equipment is subject to the condition of payment by OWNER as set forth in Article 3.
- 3.6. **SUBCONTRACTOR ASSIGNMENT OF RECEIVABLES:** SUBCONTRACTOR shall advise CONTRACTOR prior to entering into this AGREEMENT of the existence of any assignments or security interests granted by SUBCONTRACTOR to any general creditor, bank, lender, surety, factor or other entity in receivables or moneys that may become due SUBCONTRACTOR under this AGREEMENT and shall give CONTRACTOR prompt written notice of any such assignments or security interests granted by SUBCONTRACTOR after entering into this AGREEMENT.
- 3.7. **FINAL PAYMENT:** It is expressly agreed that any payment to SUBCONTRACTOR for the work performed or materials or equipment furnished shall be made from funds received from OWNER by CONTRACTOR with respect to SUBCONTRACTOR'S work. The making of all final payments and the amount thereof are expressly subject to this condition precedent. SUBCONTRACTOR states that it relies primarily on the credit and ability of OWNER to pay and not upon CONTRACTOR'S credit or ability, and further, expressly accepts the risk that it will not be paid for work performed by it in the event that CONTRACTOR, for whatever reason, is not paid by OWNER for such work. The liability of CONTRACTOR'S surety, if any, shall be subject to the same condition precedent. Additionally, final payment shall not be due until CONTRACTOR is in receipt of the following: (a) a final lien release (see Contract

Package) and an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the WORK AUTHORIZATION FORM for which OWNER or its property or CONTRACTOR or the respective sureties might in any way be liable, have been paid or otherwise satisfied; (b) consent of SUBCONTRACTOR'S surety to final payment, if required; (c) satisfaction of close-out procedures as may be required by the CONTRACT DOCUMENTS; (d) certification that insurance required by the AGREEMENT remain in effect beyond final payment pursuant to this AGREEMENT is in effect and will not be canceled or allowed to expire without at least thirty (30) calendar days' written notice to CONTRACTOR, unless a longer period is stipulated in the CONTRACT DOCUMENTS; (e) other data if required by OWNER, such as receipts, releases, and waivers of liens effective upon payment to the extent and in such form as may be designated by OWNER; (f) complete as built drawings; and (g) acknowledgement as may be required from OWNER and or its architect that SUBCONTRACTOR'S WORK is complete, free from deficiencies and not subject to back charges and or liquidated damage assessments. Acceptance of final payment by SUBCONTRACTOR shall constitute a waiver of claims by SUBCONTRACTOR.

4. BOND

If a performance or payment bond, or both, is, required of SUBCONTRACTOR under the WORK AUTHORIZATION FORM then said bonds shall be in the full amount of the SUBCONTRACT PRICE, unless otherwise specified herein and said bonds shall be in a form and by a surety agreeable to CONTRACTOR. To the extent the SUBCONTRACT PRICE is equal to or less than Three Million Dollars, the surety must, at a minimum, be rated A and have a financial size category of class VII by A.M. Best Company. To the extent the SUBCONTRACT PRICE is greater than Three Million Dollars, the surety must, at a minimum, be rated A and have a financial size category of class X by A.M. Best Company. SUBCONTRACTOR shall be reimbursed for the cost of any required performance or payment bonds simultaneously with the first progress payment thereunder. The reimbursement amount for SUBCONTRACTOR'S bonds shall not exceed one percent of the SUBCONTRACT PRICE (less applicable retainage), which sum is included in the SUBCONTRACT PRICE. In the event SUBCONTRACTOR shall fail to promptly provide any required bonds, CONTRACTOR may terminate the WORK AUTHORIZATION FORM and enter into a subcontract for the balance of the SUBCONTRACT WORK with another subcontractor. All costs and expenses incurred by CONTRACTOR as a result of said termination shall be paid by SUBCONTRACTOR.

5. PERFORMANCE OF WORK:

OVERALL PROJECT SCHEDULE/SCHEDULE OF WORK. With the perspective of finishing the Project as early as reasonably possible, SUBCONTRACTOR shall immediately provide CONTRACTOR with any scheduling information demonstrating as a minimum the planned sequence of the work anticipated and the estimated duration of each Activity (the "network logic and Activity durations") proposed for the SUBCONTRACT WORK. At the option of CONTRACTOR, SUBCONTRACTOR may be requested to additionally submit the estimated manpower and the Schedule of value cost of each Activity. Based on all the information provided to CONTRACTOR, CONTRACTOR will prepare the schedule for performance of the CONTRACT (hereinafter called the "OVERALL PROJECT SCHEDULE") for which SUBCONTRACTOR agrees to be bound unless Subcontractor provides an objection detailing the basis of objection and evidencing that the Overall Project Schedule is unworkable, said objection to be provided in writing within 5 calendar days after posting at the site office or delivery to SUBCONTRACTOR. CONTRACTOR will revise and update such schedule, as necessary, as the work progresses; CONTRACTOR shall have the right to determine and, if necessary, upon consultation with SUBCONTRACTOR, change the time, order and priority in which the various activities of the work shall be performed and all other matters relative to the timely and orderly conduct of the SUBCONTRACT WORK, WITHOUT ADDITIONAL COST TO CONTRACTOR.

- 5.1. **DATE OF COMMENCEMENT:** SUBCONTRACTOR accepts the Notice to Proceed under the CONTRACT as the date of commencement and agrees to do everything required to comply with the time constraints of the PRIME CONTRACT and the OVERALL PROJECT SCHEDULE.
- 5.2. **TIME OF PERFORMANCE:** Time is of the essence, and SUBCONTRACTOR agrees to complete the SUBCONTRACT WORK in the time allotted for performance for the respective SUBCONTRACT WORK Activities in the manner reflected by OVERALL PROJECT SCHEDULE. SUBCONTRACTOR agrees to start work on the project and to prosecute its work diligently to completion as required by the OVERALL PROJECT SCHEDULE. SUBCONTRACTOR is bound to the terms of the PRIME CONTRACT relating to changes, changed conditions, extra work, and disputes and shall give to CONTRACTOR immediate written notice of any such asserted change, changed condition, extra or disputed claim so that CONTRACTOR may timely comply with all notice requirements of the PRIME CONTRACT. SUBCONTRACTOR agrees that unless agreed otherwise in writing, it will receive no extension of time for delays or hindrances unless CONTRACTOR receives an extension of time from OWNER, and if such extension(s) is given, unless the CONTRACT permits otherwise, the extension(s) shall serve as the full consideration and compensation for delay(s) and hindrances regardless of the length of delay or hindrance, the cause of the delay or hindrance or whether such delay or hindrance was anticipated or not.

- 5.3. **SUBCONTRACT PERFORMANCE:** Subcontractor shall use its best care, skill and diligence in supervising and directing the Subcontract Work. Subcontractor shall have responsibility and control over the performance of the Subcontract Work, including the construction methods, techniques, means and sequences for coordinating and completing the various portions of the Subcontract Work, unless the SUBCONTRACT DOCUMENTS gives other specific instructions concerning these matters.
- 5.4. **RESPONSIBILITIES:** Before undertaking its work, SUBCONTRACTOR shall carefully study the PRIME CONTRACT as it pertains to SUBCONTRACTOR'S work and check and verify all pertinent figures and dimensions shown thereon and all applicable field measurements and generally review the PRIME CONTRACT for any errors or inconsistencies. SUBCONTRACTOR shall promptly report in writing to CONTRACTOR any conflict, error or discrepancy which SUBCONTRACTOR may discover and shall obtain written interpretation or clarification from CONTRACTOR before proceeding with any work affected thereby. SUBCONTRACTOR shall furnish and be fully responsible for all demolition, removal, cutting, patching, fire safing and caulking related to its WORK as well as for all, of the labor, materials, equipment, and services, including, but not limited to, competent supervision, shop drawings, as built, samples, tools, telephone facilities, hoisting of materials, equipment and scaffolding as are necessary for the proper performance of the SUBCONTRACT WORK in accordance with and reasonably inferable from the SUBCONTRACT DOCUMENTS. SUBCONTRACTOR shall also be responsible for taking all requisite field dimensions, providing tests, ordering of materials and all other actions as required to perform the SUBCONTRACT WORK and to comply with the OVERALL PROJECT SCHEDULE. SUBCONTRACTOR shall provide to CONTRACTOR a list of its proposed subcontractors and suppliers for Contractor's approval, which shall not be unreasonably withheld. SUBCONTRACTOR shall designate one or more persons who shall be the authorized SUBCONTRACTOR's representative(s) on-site and off-site. Within 10 days of receipt of this document, SUBCONTRACTOR shall designate a competent, English speaking Superintendent as the on-site contact, and submit their designee's name and resume to CONTRACTOR for approval. CONTRACTOR's approval shall not be unreasonably withheld. SUBCONTRACTOR shall perform all layout and is strictly responsible for the accuracy of the SUBCONTRACT WORK and for any loss or damage to CONTRACTOR or others by reason of SUBCONTRACTOR's failure to set out or perform its work correctly. SUBCONTRACTOR shall exercise prudence so that the actual final conditions and details of its SUBCONTRACT WORK shall result in alignment of finish surfaces. SUBCONTRACTOR is responsible for timely completion of its work to prevent delay of or interference with another trade and comply with the OVERALL PROJECT SCHEDULE. SUBCONTRACTOR is responsible for all costs associated with Maintenance of Traffic related to its work, as well as for all costs associated with scheduling and coordination of all hoisting of its materials, equipment and personnel.

As part of its responsibilities, SUBCONTRACTOR is required to promptly remedy any loss or damage caused to the work, materials, equipment and/or property to the extent such loss is caused in whole or in part by SUBCONTRACTOR and/or persons or entities performing work for or on behalf of SUBCONTRACTOR, regardless of tier, who have furnished labor, materials or services relating to the SUBCONTRACT and for whose acts SUBCONTRACTOR may be liable.

- 5.5. **SUBCONTRACTOR'S OBLIGATIONS FOR SITE VISITATION:** SUBCONTRACTOR hereby acknowledges and represents that it has thoroughly investigated, examined and familiarized itself with the site of the work and any associated difficulties with the performance of the work, and that CONTRACTOR has made no representations of any kind or nature thereto. Prior to performing its work, SUBCONTRACTOR shall notify CONTRACTOR of any problem which would prevent or hinder performance by SUBCONTRACTOR. Commencement of the work by SUBCONTRACTOR shall constitute acceptance of the site conditions as being appropriate for installation of SUBCONTRACTOR'S work, and SUBCONTRACTOR shall be deemed to have waived any and all claims as to non-suitability, unless SUBCONTRACTOR provides notice to CONTRACTOR specifying its objection to the site and CONTRACTOR authorizes SUBCONTRACTOR to proceed.
- 5.6. **SHOP DRAWINGS, SAMPLES, PRODUCT DATA AND MANUFACTURERS' LITERATURE:** Within ten (10) working days from the receipt of this writing executed by CONTRACTOR, SUBCONTRACTOR shall submit for approval to CONTRACTOR, shop drawings with samples, product data, manufacturers' literature and similar submittals as required under the CONTRACT DOCUMENTS. SUBCONTRACTOR shall additionally prepare and deliver to CONTRACTOR all submittals which may reasonably be required by CONTRACTOR, OWNER or ARCHITECT to detail and illustrate the work to be done in a manner consistent with the OVERALL PROJECT SCHEDULE and in such time and sequence so as not to delay CONTRACTOR or others in the performance of the CONTRACT WORK. The approval of any SUBCONTRACTOR submittal shall not be deemed to authorize deviations, substitutions or changes in the requirements of the SUBCONTRACT DOCUMENTS unless express written approval is obtained from CONTRACTOR and OWNER authorizing such deviation, substitution or change. SUBCONTRACTOR shall, from time to time, and at frequent intervals, inform CONTRACTOR in writing as to what additional information, if any, SUBCONTRACTOR may require to complete the WORK herein contemplated in scheduled time. All SUBCONTRACTOR submittals to CONTRACTOR under this article shall be delivered with sets of fifteen (15) copies each, and shall remain the property of CONTRACTOR.

- 5.7. **PROJECT MEETINGS, CONSULTATION COORDINATION AND COOPERATION:** SUBCONTRACTOR shall (a) cooperate with CONTRACTOR and all others whose work may interfere with the SUBCONTRACT WORK; and (b) specifically note and immediately advise CONTRACTOR of any interference with the SUBCONTRACT WORK. Without limiting the forgoing, SUBCONTRACTOR agrees that it will, at its own cost, participate in and have its designated authorized representative attend and cooperate at incidental meetings and regularly scheduled meetings relative to the coordination, implementation and modification(s) of the work schedules and control techniques undertaken by CONTRACTOR, OWNER and/or ARCHITECT relative to the project. Unless otherwise provided in the SUBCONTRACT DOCUMENTS, SUBCONTRACTOR communications by and with OWNER, ARCHITECT, separate contractors and/or other subcontractors and suppliers of CONTRACTOR, regardless of tier, shall be through CONTRACTOR.
- 5.8. **PERMITS, FEES AND LICENSES:** SUBCONTRACTOR shall give adequate notices to authorities pertaining to the SUBCONTRACT WORK and shall apply for, secure and pay for all permits, fees, licenses, assessments, inspections and taxes necessary to complete the SUBCONTRACT WORK in accordance with the SUBCONTRACT DOCUMENTS. To the extent obtained by CONTRACTOR from OWNER as part of change order(s), SUBCONTRACTOR may be compensated for additional costs resulting from laws, ordinances, rules, regulations and taxes enacted after the date of the WORK AUTHORIZATION FORM.
- 5.9. **DELEGATION OR SUBCONTRACTING OF DUTIES:** SUBCONTRACTOR is prohibited from delegating, transferring, conveying, subcontracting, relinquishing or otherwise disposing of the whole or any part of its duties under this AGREEMENT or any WORK AUTHORIZATION FORMS without the prior written approval of CONTRACTOR. CONTRACTOR's approval shall not be unreasonably withheld.
- 5.10. **TESTS AND INSPECTIONS:** SUBCONTRACTOR shall schedule all required tests, approvals and inspections of the SUBCONTRACT WORK or portions thereof at appropriate times so as not to delay the progress of the work. SUBCONTRACTOR shall give proper written notice to all required parties of such tests, approvals and inspections. SUBCONTRACTOR shall bear all expenses associated with tests, inspections and approvals required of SUBCONTRACTOR by the SUBCONTRACT DOCUMENTS which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity approved by CONTRACTOR and OWNER. Required certificates of testing, approval or inspection shall, unless otherwise required by the SUBCONTRACT DOCUMENTS, be secured by SUBCONTRACTOR and promptly delivered to CONTRACTOR.
- 5.11. **WORKMANSHIP:** Every part of the SUBCONTRACT WORK shall be executed in accordance with the SUBCONTRACT DOCUMENTS in a workmanlike and substantial manner subject at all times to the inspection and approval of CONTRACTOR, OWNER, and ARCHITECT. All materials used in the SUBCONTRACT WORK shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the work, and shall be new except such materials as may be expressly provided in the SUBCONTRACT DOCUMENTS to be otherwise.
- 5.12. **MATERIALS FURNISHED BY OTHERS:** In the event the scope of the SUBCONTRACT WORK includes installation of materials or equipment furnished by others, it shall be the responsibility of SUBCONTRACTOR to examine the items so provided and thereupon handle, store and install the items, unless otherwise provided in the SUBCONTRACT DOCUMENTS, with such skill and care as to ensure a satisfactory and proper installation. Loss or damage due to acts of SUBCONTRACTOR shall be deducted from any amounts due or to become due SUBCONTRACTOR under the WORK AUTHORIZATION FORM. If requested by CONTRACTOR, CONTRACTOR shall be given access to the places of business of SUBCONTRACTOR, and the suppliers of SUBCONTRACTOR, in order that CONTRACTOR may inform itself as to the general conditions and progress of the work herein contemplated.
- 5.13. **SUBSTITUTIONS:** No substitutions shall be made in the SUBCONTRACT WORK unless permitted in the SUBCONTRACT DOCUMENTS and only then upon SUBCONTRACTOR first receiving all approvals required under the SUBCONTRACT DOCUMENTS for substitutions.
- 5.14. **CLEANUP:** SUBCONTRACTOR shall follow CONTRACTOR's cleanup directions, and (a) at all times keep the building and premises free from debris resulting from the SUBCONTRACT WORK; (b) broom clean each work-area and clean and/or repair any surfaces or areas marred or made dirty as a result of its operations prior to discontinuing work in each area, and (c) at the completion of its WORK, it shall remove all of its waste materials and rubbish from and about the project as well as all its tools, construction equipment, machinery and surplus materials. If SUBCONTRACTOR fails to immediately commence compliance with cleanup duties within twenty-four (24) hours after written notification from CONTRACTOR of noncompliance, CONTRACTOR may implement appropriate cleanup measures without further notice and deduct the cost thereof from any amounts due or to become due SUBCONTRACTOR under the WORK AUTHORIZATION FORM. Cleanup, as described above, shall be performed on a daily basis. SUBCONTRACTOR shall place all debris in an on-site dumpster or as otherwise designated by CONTRACTOR.

- 5.15. **SIGNAGE:** No billboard, sign or equivalent will be allowed on storage trailer, in storage yard or any other location on the project site without written approval of CONTRACTOR. SUBCONTRACTOR will be allowed one company logo sign on its Field Office Trailer if size and location are approved in writing by CONTRACTOR. SUBCONTRACTOR must maintain approved signs and supports clean, and immediately repair deterioration and/or damages. SUBCONTRACTOR is to remove signage assembly and restore area at request of CONTRACTOR or at completion of Project.

6. WARRANTY

SUBCONTRACTOR warrants its WORK against all deficiencies and defects in materials and/or workmanship and as called for in the SUBCONTRACT DOCUMENTS and/or as may be required by OWNER. SUBCONTRACTOR agrees to satisfy such warranty obligations which appear within the warranty period established in the SUBCONTRACT DOCUMENTS without cost to OWNER or CONTRACTOR. SUBCONTRACTOR further agrees to furnish any special warranties that shall be required in accordance with the SUBCONTRACT DOCUMENTS for the SUBCONTRACT'S WORK prior to final payment.

- 6.1. **CORRECTION OF WORK:** SUBCONTRACTOR is required to correct in a timely fashion any SUBCONTRACT WORK rejected by CONTRACTOR or OWNER for failing to comply with the SUBCONTRACT DOCUMENTS whether observed prior to the commencement of the warranty period(s) or during the warranty period(s). SUBCONTRACTOR shall correct at its own cost and time and bear the expense of additional services and delay damages for any nonconforming SUBCONTRACT WORK for which it is responsible.

7. SAFETY OF PERSONS AND PROPERTY

Prevention of accidents at the site is the responsibility of CONTRACTOR, SUBCONTRACTOR, and all other subcontractors, persons and entities at the site. A copy of CONTRACTOR's Safety Manual has been made available to SUBCONTRACTOR; however, the establishment of a safety program by CONTRACTOR shall not relieve SUBCONTRACTOR or other parties of their safety responsibilities. SUBCONTRACTOR is required to perform the SUBCONTRACT WORK in a safe and reasonable manner and shall implement appropriate safety measures pertaining to the SUBCONTRACT WORK and the Project, including establishing safety rules, posting appropriate warnings and notices, erecting safety barriers, and establishing proper notice procedures to protect persons and property at the site and adjacent thereto from injury, loss or damage. SUBCONTRACTOR shall give all required notices and comply with all applicable rules, regulations, orders and other lawful requirements required or recommended by governmental and quasigovernmental authorities having jurisdiction established to prevent injury, loss or damage to persons including without limitation, those of the Occupational Safety and Health Act and the Construction Safety Act and all standards and regulations which have been or shall be promulgated by the agencies administering such Acts. SUBCONTRACTOR shall be directly responsible for such compliance on the part of its agents, employees, material men, invitees and subcontractors. SUBCONTRACTOR is required to promptly remedy any loss or damage caused to the work, materials, equipment and property referred to above, but only to the extent caused by SUBCONTRACTOR and/or persons or entities performing work for or on behalf of SUBCONTRACTOR, regardless of tier, who have furnished labor, materials or services relating to the SUBCONTRACT and for whose acts SUBCONTRACTOR may be liable. SUBCONTRACTOR shall not be required to remedy any loss or damage which is not attributable to the invitation, fault or negligence of SUBCONTRACTOR or of any person or entity for whose acts SUBCONTRACTOR may be liable.

- 7.1. **SAFETY REPRESENTATIVE:** SUBCONTRACTOR is required to designate an individual at the site in the employ of SUBCONTRACTOR who shall act as SUBCONTRACTOR's designated safety representative with a duty to prevent accidents. Unless otherwise identified by SUBCONTRACTOR in writing to CONTRACTOR, the designated safety representative shall be SUBCONTRACTOR's designated on-site representative.
- 7.2. **SAFETY LOADS:** SUBCONTRACTOR has an affirmative duty not to overload the structures or conditions at the site and shall take reasonable steps not to load any part of the structures, or site so as to give rise to an unsafe condition or create an unreasonable risk of personal injury or property damage. SUBCONTRACTOR shall have the right to request, in writing, from CONTRACTOR loading information concerning the structures at the site.
- 7.3. **ACCIDENTS:** SUBCONTRACTOR shall give prompt written notice to CONTRACTOR of any accident involving personal injury, any property damage exceeding Five Hundred Dollars (\$500.00) in value, or any failure that could have resulted in serious personal injury, whether or not such an injury was sustained. A detailed report shall be furnished if requested by CONTRACTOR, said report to contain at a minimum the names of all persons involved in the accident, the names of all witnesses to the accident, a description of the accident, police and emergency medical services reports and/or report numbers, photographs of the accident site pre- and post-accident, and all other relevant information relating to the accident. SUBCONTRACTOR shall establish its own safety program implementing safety measures, policies and standards conforming to those. SUBCONTRACTOR shall comply with the reasonable recommendations of insurance companies having an interest in the Project, and shall stop any part of the SUBCONTRACT WORK which CONTRACTOR deems unsafe until corrective measures satisfactory to

CONTRACTOR shall have been taken. CONTRACTOR's failure to stop SUBCONTRACTOR's unsafe practices shall not relieve SUBCONTRACTOR of the responsibility therefor. SUBCONTRACTOR shall indemnify and hold CONTRACTOR harmless against all assessments, fines, penalties, damage claims or liabilities which may be incurred by CONTRACTOR, OWNER and their agents by reason of the failure of SUBCONTRACTOR, its agents, employees, material men, invitees or subcontractors to comply as aforesaid. SUBCONTRACTOR shall also indemnify and hold CONTRACTOR harmless against all expenses incidental to the defense or settlement of any such asserted assessment, fine, penalty, claim or liability and, if required by CONTRACTOR, SUBCONTRACTOR shall assume, at its own expense, the defense or settlement of the aforesaid items.

7.4. **WORK PROTECTION:** SUBCONTRACTOR agrees to take all necessary precautions to protect its WORK and the work of all others on the Project with which it may come in contact. SUBCONTRACTOR further agrees to remedy at its own expense all damages to its WORK or that of others where it is responsible for such damage or loss. If SUBCONTRACTOR's WORK (or any part thereof) is of such nature (by reasons of the method of construction or materials used) that the same is susceptible (temporarily or permanently) to damage or injury, SUBCONTRACTOR shall prominently post on or near such work written notice of the possibility of damage or injury and the precautions which are to be undertaken.

7.5. **MATERIALS SAFETY:** Should SUBCONTRACTOR encounter asbestos, polychlorinated biphenyl (PCB) or other hazardous substances at the site which may be potentially harmful to persons or property, then SUBCONTRACTOR shall take all steps required by the SUBCONTRACT DOCUMENTS and by law to protect persons and property from injury or damage, including stopping the SUBCONTRACT WORK in the affected areas and promptly advising CONTRACTOR in writing of the conditions encountered at the site. Should SUBCONTRACTOR be required to stop work in any area of the Project as a result of hazardous substances located at the site, then SUBCONTRACTOR shall not resume its SUBCONTRACT WORK in the affected area until (a) the hazardous substances have been removed or made harmless, (b) CONTRACTOR and SUBCONTRACTOR agree in writing to commence work in all or a portion of the area, (c) OWNER orders the work to proceed in the affected area and the parties agree, or (d) the matter is resolved through arbitration as provided for in this AGREEMENT. SUBCONTRACTOR shall not be required to perform work in areas containing asbestos, PCBs, or any other hazardous substances defined by the SUBCONTRACT DOCUMENTS, without CONTRACTOR's consent. Material Safety Data (MSD) sheets as required by law and pertaining to materials or substances used or consumed in the performance of the SUBCONTRACT WORK shall be submitted to CONTRACTOR by SUBCONTRACTOR.

8. INDEMNIFICATION

In addition to the indemnification provisions set forth in the General Conditions Provisions of the PRIME CONTRACT which SUBCONTRACTOR agrees to assume as it relates to damages caused by SUBCONTRACTOR or its agents, and except as otherwise provided by law, including but not limited to Chapter 725 of the Florida Statutes, SUBCONTRACTOR shall and hereby does indemnify, defend and hold harmless OWNER, CONTRACTOR, its officers consultants, agents, sureties and employees ("Indemnified Party" or "Indemnified Parties"), from and against any and all demands, claims, suits, causes of action, losses, penalties, liabilities, judgments, settlements, costs, damages, attorneys' fees, and expenses of any nature, including without limitation attorneys' fees and litigation costs, whether groundless or not, arising out of or alleged to have arisen directly or indirectly from the performance or lack of performance, or for infringement of any patent, copyright, trademark, trade name, brand or slogan or the negligence, recklessness or intentional wrongful misconduct of SUBCONTRACTOR and or persons employed or utilized by SUBCONTRACTOR in the performance of the WORK AUTHORIZATION FORM or related to same. However, the fact that a portion of the liability, damages, losses or costs is alleged to have been caused by an Indemnified Party shall not release SUBCONTRACTOR from its responsibility to defend the Indemnified Parties indemnified hereunder or from its responsibility for the extent of the liability, damages, losses and costs caused by the negligence, recklessness or intentional wrongful misconduct of SUBCONTRACTOR, persons employed or utilized by SUBCONTRACTOR in the performance of the WORK AUTHORIZATION FORM or anyone for whose acts SUBCONTRACTOR may be liable. SUBCONTRACTOR will maintain whatever security or insurance is reasonably necessary to protect CONTRACTOR against any loss or liability and to fulfill SUBCONTRACTOR's indemnity obligations under the SUBCONTRACT DOCUMENTS. SUBCONTRACTOR'S indemnification obligations under this Section shall be limited to One Million Dollars (\$1,000,000) per occurrence or the total amount of the Subcontract Price per occurrence, whichever is greater, unless the PRIME CONTRACT with OWNER requires CONTRACTOR to indemnify OWNER in a greater amount, in which case, such greater amount shall constitute the extent of SUBCONTRACTOR'S indemnity obligation to Indemnified Parties hereunder. The parties specifically agree that such monetary limitation bears a reasonable commercial relationship to this AGREEMENT. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described in this Section.

SUBCONTRACTOR further agrees, that on private projects, the indemnity obligation of SUBCONTRACTOR contained in this Section shall extend to claims, damages, losses and expenses caused by the sole negligence or wrongful acts of the Indemnified Parties, but shall not include claims of, or damages resulting from, gross negligence or willful, wanton or intentional misconduct of the Indemnified Parties, or for statutory violations or punitive damages; provided, however, that SUBCONTRACTOR shall indemnify the Indemnified Parties for statutory violations or punitive damages to the extent such

violations or damages are caused by or result from the acts or omissions of SUBCONTRACTORS, its contractors, subcontractors, sub-subcontractors, material men, suppliers, agents of any tier, or their respective employees.

SUBCONTRACTOR'S indemnity obligations pursuant to this AGREEMENT are separate, apart and distinct from its obligations to provide insurance required by this AGREEMENT, and neither obligation shall or is intended to limit or affect the other.

- 8.1. **COMPLIANCE WITH LAWS:** SUBCONTRACTOR agrees to be bound by, and at its own cost, comply with all federal, state and local laws, ordinances and regulations (hereinafter collectively referred to as "laws") applicable to the SUBCONTRACT WORK including, but not limited to, equal employment opportunity, minority business enterprise, women's business enterprise, disadvantaged business enterprise, and all other laws with which SUBCONTRACTOR must comply according to the SUBCONTRACT DOCUMENTS. SUBCONTRACTOR shall be liable to CONTRACTOR and OWNER for all loss, cost and expense attributable to any acts of commission or omission by SUBCONTRACTOR, its employees and agents resulting from the failure to comply therewith, including, but not limited to, any fines, penalties or corrective measures.
- 8.2. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF MEMBER.** The SUBCONTRACTOR hereby represents, warrants and covenants to CONTRACTOR and OWNER that the SUBCONTRACTOR has not, and covenants and agrees that it will not, in connection with the transactions contemplated by this AGREEMENT or in connection with any other business transactions involving CONTRACTOR and OWNER, make, promise or offer to make any payment or transfer of anything of value, directly or indirectly, with corrupt intent: to any foreign official or to an intermediary for payment to any foreign official; or to any political party, party candidate or party official; or to any officer or employee of a public international organization in violation of the U.S. Foreign Corrupt Practices Act (FCPA).

It is the intent of the parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining or retaining business. This subsection shall not, however, prohibit normal and customary business entertainment or the legal giving of business mementos of nominal value in connection with the SUBCONTRACTOR'S performance under this AGREEMENT.

- 8.3. **SUBCONTRACTOR'S CONTINUING OBLIGATION TO ADVISE:** The SUBCONTRACTOR agrees that should it learn or have reason to know of: (i) any payment, offer, or agreement to make a payment to a foreign official, political party, or other persons listed in subparagraph 8.2 above, for the purpose of obtaining or retaining business or securing any improper advantage for CONTRACTOR and OWNER under this AGREEMENT or otherwise, or (ii) any other development during the term of this AGREEMENT that in any way makes inaccurate or incomplete the representations, warranties and certifications of the SUBCONTRACTOR hereunder given or made as of the date hereof or at any time during the term of this AGREEMENT, relating to the FCPA, SUBCONTRACTOR will immediately advise CONTRACTOR and OWNER in writing of such knowledge or suspicion and the entire basis known to the SUBCONTRACTOR therefor.
- 8.4. **NO GOVERNMENTAL OWNERSHIP OF SUBCONTRACTOR.** The SUBCONTRACTOR hereby represents and warrants to CONTRACTOR and OWNER that no ownership interest, direct or indirect, in the SUBCONTRACTOR or in the contractual relationship established by this AGREEMENT, is held or controlled by or for the benefit of any foreign official or foreign political party, party candidate or official and that it will notify CONTRACTOR and OWNER in the event of a change in the foregoing.
- 8.5. **CONTRACTOR and OWNER RIGHT OF INVESTIGATION:** The SUBCONTRACTOR agrees that CONTRACTOR and OWNER shall have the right, at CONTRACTOR'S and OWNER'S sole discretion, upon written notice to the SUBCONTRACTOR, to conduct an investigation and audit of the SUBCONTRACTOR to verify compliance with the provisions of this section. The SUBCONTRACTOR agrees to cooperate fully with such investigation, the scope, method, nature and duration of which shall be at the sole reasonable discretion of CONTRACTOR and OWNER.
- 8.6. **CONTRACTOR and OWNER RIGHTS UPON AN FCPA DEFAULT:** In the event that CONTRACTOR and OWNER believes, in good faith, that the SUBCONTRACTOR has acted in any way that may subject CONTRACTOR and OWNER to liability under the FCPA, CONTRACTOR and OWNER shall have the unilateral right, exercisable immediately upon written notice to the SUBCONTRACTOR, to terminate this AGREEMENT without further liability or obligation on the part of CONTRACTOR and OWNER.
- 8.7. **DISCLOSURE TO U.S. GOVERNMENT.** The SUBCONTRACTOR agrees that full disclosure of information relating to a possible violation of FCPA or the existence and terms of this AGREEMENT, including the compensation provisions, may be made at any time and for any reason to the U.S. government and its agencies, and to whomsoever CONTRACTOR'S and OWNER'S General Counsel determines has a legitimate need to know.
- 8.8. **PATENTS:** Except as otherwise provided by the SUBCONTRACT DOCUMENTS, SUBCONTRACTOR shall pay all royalties and License fees which may be due on the inclusion of any patented materials in the SUBCONTRACT

WORK. SUBCONTRACTOR shall defend all suits for claims for infringement of any patent rights arising out of the SUBCONTRACT WORK, which may be brought against CONTRACTOR or OWNER, and shall be liable to CONTRACTOR and OWNER for all loss, including all costs, expenses, and attorneys' fees, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the SUBCONTRACT DOCUMENTS. However, if SUBCONTRACTOR has reason to believe that a particular design, process or product required by the SUBCONTRACT DOCUMENTS is an infringement of a patent, then SUBCONTRACTOR shall promptly furnish such information to CONTRACTOR or be responsible to CONTRACTOR and OWNER for any loss sustained as a result thereof.

9. INSURANCE

Prior to start of the SUBCONTRACT WORK, SUBCONTRACTOR will be required to fully comply with all insurance mandates required under the PRIME CONTRACT. SUBCONTRACTOR shall procure for the SUBCONTRACT WORK and maintain in force Workers' Compensation Insurance, Employer's Liability Insurance, Comprehensive Automobile Liability Insurance, Commercial General Liability Insurance including completed operations coverage on an occurrence basis, and any other insurance required of Subcontractor under the AGREEMENT. If required by the SUBCONTRACT DOCUMENTS, CONTRACTOR, OWNER and other parties as required shall be named as additional insured's on each of these policies except for Workers' Compensation. SUBCONTRACTOR's insurance shall include contractual liability insurance covering SUBCONTRACTOR's obligations under this AGREEMENT and WORK AUTHORIZATIONS FORMS. SUBCONTRACTOR shall maintain completed operations liability insurance for one year after acceptance of the SUBCONTRACT WORK, substantial completion of the Project, or to the time required by the SUBCONTRACT DOCUMENTS, whichever is longer. SUBCONTRACTOR shall furnish CONTRACTOR evidence of such insurance at the time of completion of the SUBCONTRACT WORK.

SUBCONTRACTOR'S insurance obligations pursuant to this AGREEMENT are separate, apart and distinct from its indemnity obligations in this AGREEMENT, and neither obligation shall or is intended to limit or affect the other.

- 9.1. **MINIMUM LIMITS OF LIABILITY:** SUBCONTRACTOR's Comprehensive or Commercial General Liability Insurance and Comprehensive Automobile Liability Insurance, shall be written with limits of liability not less than the following:
 - 9.1.1. Commercial General Liability Insurance including Products & Completed Operations, Personal & Advertising Injury coverage and Independent Contractors coverage:
Limits of Liability: \$1,000,000 each occurrence, \$2,000,000 aggregate.
 - 9.1.2. Comprehensive Automobile Liability Insurance Coverage must include: (a) owned vehicles, (b) hired or non-owned vehicles.
Limits of Liability: \$1,000,000 each occurrence, \$2,000,000 aggregate.
 - 9.1.3. Workers' Compensation & Employers Liability Coverage as follows:
Limits of Liability for Workers' Compensation: Statutory Limits
Limits of Liability Employers Liability: \$1,000,000 Bodily Injury by Accident, \$1,000,000 Bodily Injury by Disease policy limit and \$1,000,000 Bodily Injury by Disease each employee.
- 9.2. **POLICIES:** Commercial General Liability Insurance and other liability insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy. Certificates of Insurance, or certified copies of policies reasonably acceptable to CONTRACTOR, shall be filed with CONTRACTOR prior to the commencement of the SUBCONTRACT WORK. In the event SUBCONTRACTOR fails to obtain or maintain any insurance coverage required under this AGREEMENT, CONTRACTOR may purchase such coverage and charge the expense thereof to SUBCONTRACTOR, or terminate this AGREEMENT and any WORK AUTHORIZATION FORMS at issue. If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.
- 9.3. **CANCELLATION, RENEWAL OR MODIFICATION:** SUBCONTRACTOR shall maintain in effect all insurance coverage required under this AGREEMENT at SUBCONTRACTOR's sole expense and with insurance companies mutually agreeable to CONTRACTOR and SUBCONTRACTOR. All insurance policies shall contain a provision that the coverages afforded thereunder shall not be cancelled or not renewed, nor restrictive modifications added, until at least thirty (30) calendar days' prior written notice has been given to CONTRACTOR, unless otherwise specifically required in the SUBCONTRACT DOCUMENTS.

- 9.4. **WAIVER OF RIGHTS:** CONTRACTOR and SUBCONTRACTOR WAIVE ALL rights against each other and OWNER, and all other subcontractors for loss or damage to the extent covered by valid and collectible Builder's Risk or any other property or equipment insurance.
- 9.5. **BUILDER'S RISK INSURANCE:** Upon written request of SUBCONTRACTOR, CONTRACTOR shall provide SUBCONTRACTOR with a copy of the Builder's Risk policy of insurance or any other property or equipment insurance in force for the Project and procured by CONTRACTOR. If OWNER has not purchased Builder's Risk insurance for the full insurable value of the SUBCONTRACT WORK, less a reasonable deductible, then SUBCONTRACTOR may procure such insurance as will protect the interests of SUBCONTRACTOR, its subcontractors and their subcontractors in the SUBCONTRACT WORK. If not covered under the Builder's Risk policy of insurance or any other property or equipment insurance required by the CONTRACT DOCUMENTS or AGREEMENT, SUBCONTRACTOR shall procure and maintain at SUBCONTRACTOR's own expense property and equipment insurance for portions of the SUBCONTRACT WORK stored off the site or in transit, when such portions of the SUBCONTRACT WORK are to be included in an application for payment. It is expressly understood that the risk of loss by reason of a deductible of any builder's policy is upon SUBCONTRACTOR and in any event SUBCONTRACTOR's right to recover all or any part of any loss or damage attributable to SUBCONTRACTOR'S WORK is limited to such recovery as may be made by OWNER under the applicable insurance. Except for SUBCONTRACTOR's right to any such insurance recovery set forth herein, the provisions imposing any indemnifications and/or responsibility upon SUBCONTRACTOR for loss or damage pertaining to SUBCONTRACTOR'S WORK or caused by SUBCONTRACTOR to all parties are controlling.

10. CHANGES, CLAIMS AND DELAYS

- 10.1. **CHANGE ORDER:** When CONTRACTOR orders changes in writing, SUBCONTRACTOR, without nullifying this AGREEMENT or the related WORK AUTHORIZATION FORM, shall make any and all changes in the SUBCONTRACT WORK which are within the general scope of this SUBCONTRACT. Adjustments in the SUBCONTRACT PRICE or SUBCONTRACT TIME, if any, resulting from such changes shall be set forth in a SUBCONTRACT CHANGE ORDER or a Subcontract Construction Change Directive pursuant to the SUBCONTRACT DOCUMENTS. No such adjustments shall be made for any changes performed by SUBCONTRACTOR that have not been ordered by CONTRACTOR. It is expressly agreed that the daily work orders or labor tickets executed by CONTRACTOR's personnel acknowledging work performed shall not be binding for the purpose of determining whether SUBCONTRACTOR is entitled to a change order or change directive, or if so, to the value of same. Any changes to the form of this AGREEMENT or change orders of any nature shall not be considered valid unless such changes or change orders are specifically approved in writing and signed by a corporate officer of CONTRACTOR.
- 10.2. **ADJUSTMENT IN SUBCONTRACT PRICE:** If the parties cannot agree on the adjustment to SUBCONTRACT PRICE as a result of a directive or change order, SUBCONTRACTOR shall nevertheless proceed with the work pending further negotiations and or submittal to arbitration. Pending final determination of costs to CONTRACTOR and/or OWNER, SUBCONTRACTOR may include in SUBCONTRACTOR Applications for Payment to CONTRACTOR amounts not in dispute for work performed pursuant to properly authorized change orders or change directives. The acceptance by SUBCONTRACTOR of final certificate of payment shall constitute a full waiver of any and all claims, demands, or causes of action that it may have against CONTRACTOR hereunder.
- 10.3. **CLAIMS NOTICE:** SUBCONTRACTOR agrees to make all claims against CONTRACTOR in the same manner and within the time limits provided in the CONTRACT for like claims by CONTRACTOR against OWNER and in sufficient time for CONTRACTOR to make such claims against OWNER in accordance with the CONTRACT. If no time limit is provided in the CONTRACT, SUBCONTRACTOR shall give CONTRACTOR written notice of all claims within three (3) calendar days of the date when SUBCONTRACTOR knew of the facts giving rise to the event for which claim is made; otherwise, such claims shall be deemed waived and invalid.
- 10.4. **PRESENTATION OF CLAIMS – COOPERATION:** CONTRACTOR shall cooperate with SUBCONTRACTOR in submitting claims to OWNER for changes, changed conditions, and the like, with respect to SUBCONTRACT WORK. SUBCONTRACTOR shall provide CONTRACTOR full cooperation and assistance to facilitate recovery for SUBCONTRACTOR'S claim(s) from OWNER. As a condition precedent to filing a claim, SUBCONTRACTOR shall within the times allowable under the CONTRACT, present CONTRACTOR a claim(s) package(s) that is current, complete, and accurate and that stands on its own [with all supporting documentation (time impact, cost analysis or the like) reasonably required for a reasonable person to fully understand and assess the claim]. Notwithstanding any conflicting language in this AGREEMENT, CONTRACTOR hereby grants SUBCONTRACTOR the right to make whatever claims CONTRACTOR may deem reasonable or equitable as against the OWNER as pass-through claims; and, in furtherance of the parties agreement for mutual cooperation, if SUBCONTRACTOR complies with the pertinent requirements of this AGREEMENT, CONTRACTOR agrees to exert its best efforts to submit these claims as pass-through claims to OWNER. The parties expressly agree that CONTRACTOR'S presentation of

SUBCONTRACTOR'S claims to OWNER shall be with the express understanding that such submission(s) is not to be interpreted as CONTRACTOR's assumption of liability for same.

SUBCONTRACTOR agrees to make all claims, requests for Change Authorization, requests for time extensions (hereafter "Claim(s)") involving any additional compensation or damages for which SUBCONTRACTOR claims is the fault of either CONTRACTOR or OWNER, for which either may be liable, in the manner provided by the CONTRACT DOCUMENTS and applicable law. In addition to the foregoing, and not by way of limitation, notice of such Claims shall be given by SUBCONTRACTOR in writing to CONTRACTOR within three (3) days of the beginning of the event or non-occurrence of the event for which such Claims to be made, otherwise, such Claim shall be deemed waived. If the Claim involves a request for extension of time, SUBCONTRACTOR shall notify CONTRACTOR in writing of the cause of the delay within three (3) days of the beginning of the event or non-occurrence of the event giving rise to the Claim, otherwise, such Claims shall be deemed waived. Additionally, SUBCONTRACTOR shall provide CONTRACTOR with a time impact analysis, in the format and with the content specified in the CONTRACT DOCUMENTS, within ten (10) days after completion of the work that is subject of the claim, otherwise, such Claims shall be deemed waived. For Claims, or portions thereof, for which OWNER may be liable (OWNER/ Related Claims), SUBCONTRACTOR shall have no greater right against CONTRACTOR than CONTRACTOR has against OWNER; and CONTRACTOR shall not be liable to SUBCONTRACTOR for any sum in excess of the amount actually received by CONTRACTOR from OWNER for such claims. Any amount received by CONTRACTOR for OWNER Related Claims shall be reduced by CONTRACTOR's reasonable and proportional costs, expenses, attorneys' and experts' fees, overhead and profit, for making such Claim on SUBCONTRACTOR's behalf unless such CONTRACTOR costs, expenses, overhead and profit have been recovered.

SUBCONTRACTOR shall have no cause of action against CONTRACTOR for any claims for additional compensation or damages for OWNER Related Claims unless and until OWNER has paid such claim. Payment by OWNER is an absolute condition precedent to SUBCONTRACTOR filing a cause of action against CONTRACTOR in regard to such claim.

10.5. **COST:** No change or extra work ordered by either OWNER or CONTRACTOR shall invalidate any bond or bonds to be furnished by SUBCONTRACTOR.

10.6. **DELAY:** If SUBCONTRACTOR is delayed in the performance of the SUBCONTRACT WORK for any reason for which CONTRACTOR, OWNER or ARCHITECT concludes has resulted in excusable delay, then SUBCONTRACTOR is entitled to an extension of the SUBCONTRACT TIME in which to complete its WORK. Unless otherwise allowable in the AGREEMENT, SUBCONTRACTOR shall not be entitled to damages for delays. The extension of time given is the full consideration and compensation for such delays and hindrances regardless of the length of delay or hindrance, the cause of delay or hindrance or whether such delay or hindrance was anticipated or not.

Except as otherwise provided by law or unless and to the extent CONTRACTOR is paid for SUBCONTRACTOR's claims by OWNER, should SUBCONTRACTOR's performance, in whole or in part, be interfered with, re-sequenced, disrupted or delayed, or be suspended in the commencement, prosecution or completion, for reasons beyond SUBCONTRACTOR's control and without any fault or negligence on its part contributing thereto, SUBCONTRACTOR's sole and exclusive remedy shall be an extension of time in which to complete the WORK, provided that SUBCONTRACTOR shall have notified CONTRACTOR in writing of the cause of the delay and the requested time extension within three (3) days of the occurrence of the event, and otherwise complied with the submissions required under the CONTRACT DOCUMENTS and provided further that a coextensive extension of the Milestone(s), if needed, is provided to CONTRACTOR by OWNER.

If SUBCONTRACTOR should delay, interfere or damage, or threaten to delay, interfere or damage, the progress or performance of the work or cause any actual or potential damage or liability to CONTRACTOR, its subcontractors or suppliers, then SUBCONTRACTOR shall be directly responsible to CONTRACTOR for all damages, actual and liquidated, and shall be responsible to defend, indemnify and hold CONTRACTOR harmless from all claims, liability or damages as a result thereof, including reasonable overhead, profit and attorneys' and experts' fees. The liability of SUBCONTRACTOR shall not be waived by any assent or acquiescence by CONTRACTOR to SUBCONTRACTOR'S late performance. In the event any other contractor, subcontractor or supplier should cause SUBCONTRACTOR to incur damages, SUBCONTRACTOR shall neither seek nor be entitled to any compensation from CONTRACTOR, but will seek its damages directly from such other party under the condition that CONTRACTOR assign whatever rights it had to seek redress against the party at fault.

10.7. **LIQUIDATED DAMAGES:** Subcontractor has agreed to perform the SUBCONTRACT WORK within the time(s) allotted for the durations of the different activities of the SUBCONTRACT WORK as specified in the Overall Project Schedule and as may be extended by reasons of delay due to no fault of SUBCONTRACTOR as approved by CONTRACTOR, OWNER or ARCHITECT. If SUBCONTRACTOR delays the Project or fails to comply with the OVERALL PROJECT SCHEDULE, then SUBCONTRACTOR shall be liable to CONTRACTOR for the following damages: 1) if the CONTRACT provides for liquidated or other damages for delay beyond the completion date set

forth in the CONTRACT, and such damages are assessed against CONTRACTOR, then CONTRACTOR may assess such damages against SUBCONTRACTOR in proportion to its share of the responsibility for such delay and damage; and 2) SUBCONTRACTOR shall be liable to CONTRACTOR for any and all damages incurred by CONTRACTOR irrespective of Owner's assessment of liquidated or actual damages.

Such liquidated and/or other damages shall be deducted from the balance due to SUBCONTRACTOR under the WORK AUTHORIZATION FORM and any other subcontracts and work authorization forms that the parties may have between them.

10.8 CONTRACTOR'S PAST PERFORMANCE RATING

10.8.1 SUBCONTRACTOR agrees that on Florida Department of Transportation and Florida Turnpike Enterprise (collectively, "FDOT") Projects, CONTRACTOR's Past Performance Rating ("CPPR") is used by the FDOT in setting a contractor's capacity to bid on future projects and is determined based upon the performance of the prime contractor, its subcontractors and their subordinate sub-subcontractors and suppliers. SUBCONTRACTOR is responsible for its subordinates, as well as its own actions, relating to the CPPR of CONTRACTOR on the FDOT Projects.

10.8.2 The parties agree that should CONTRACTOR receive either a Deficiency Warning Letter ("DWL") or a Deficiency Letter ("DL") from FDOT, damage to CONTRACTOR is not readily ascertainable. Therefore, the parties agree that upon CONTRACTOR's receipt of either a DWL or a DL that is related to the Subcontract Work the following provisions shall apply:

10.8.2.1 Right to Cure Deficiency: CONTRACTOR will provide SUBCONTRACTOR with notice of receipt of a DWL or DL and provide SUBCONTRACTOR a twenty-four (24) hour period to cure the deficiency(ies) set forth in the DWL or DL (or to present CONTRACTOR with clear and convincing evidence, in writing, to contest the validity of the DWL or DL); provided, however, that in cases where the subject of the DWL or DL presents an emergency, CONTRACTOR shall have no obligation to provide a cure period before availing itself of the remedies provided herein. Should SUBCONTRACTOR fail to remedy the subject of the DWL or DL within the period of cure, CONTRACTOR shall have the right to correct, replace or re-execute the work that is the subject of the DWL or DL and will charge the cost thereof (including 20% markup for profit and overhead) to SUBCONTRACTOR. If CONTRACTOR performs under this provision, it may temporarily take possession of and utilize in its performance SUBCONTRACTOR'S materials, equipment, supplies, and other resources as may be on site.

10.8.2.2 Liquidated Damages Due to Effect of Deficiency: CONTRACTOR shall also have the right to withhold from SUBCONTRACTOR's next regular progress payment an amount of One Thousand Dollars (\$1,000) for each DWL or DL issued by FDOT related in whole or in part to the acts and/or omissions of Subcontractor or those for which Subcontractor is responsible. The withheld are not a penalty, but are withheld as liquidated damages for the impact that the DWL or DL will have on Contractor's capacity. Contractor agrees that Subcontractor's per occurrence liability will not exceed two and one-half percent (2.5%), cumulatively, of the SUBCONTRACT PRICE; provided, however, should SUBCONTRACTOR'S per occurrence liability reach the two and one-half percent (2.5%) level, it is agreed that sufficient justification shall exist for CONTRACTOR to declare a default and/or to terminate the Work Authorization Form for cause, provided that nothing herein shall limit CONTRACTOR default and/or exercising its termination rights granted elsewhere herein or in the Contract Documents.

11. RECOURSE IN EVENT OF NONCOMPLIANCE

11.1. FAILURE OF PERFORMANCE; NOTICE TO CURE & TERMINATION FOR DEFAULT: If in the opinion of CONTRACTOR, OWNER or ARCHITECT, SUBCONTRACTOR (1) refuses or fails to supply enough properly skilled workers, proper materials, or maintain the Schedule of WORK, (2) fails to make prompt payment to its workers, subcontractors or suppliers, (3) disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, (4) fails to perform in accordance with the SUBCONTRACT DOCUMENTS; or (5) otherwise is guilty of a material breach of a provision of the SUBCONTRACT DOCUMENTS, then CONTRACTOR may declare SUBCONTRACTOR to be in default of this AGREEMENT. If SUBCONTRACTOR fails to cure such default within twenty four (24) hours after written notification to cure or if SUBCONTRACTOR defaults once again after having been advised of a first default, then CONTRACTOR without prejudice to any other rights or remedies, shall have the right to any or all of the following remedies: (a) supply such number of workers and quantity of materials, equipment and other facilities as CONTRACTOR deems necessary for the satisfactory correction of such default; (b) contract with one or more additional contractors, to perform such part of the SUBCONTRACT WORK as CONTRACTOR shall determine will provide the most expeditious correction of the default; (c) withhold payment of moneys due SUBCONTRACTOR in accordance with Subparagraph 3.1. of this AGREEMENT; (d) terminate the WORK

AUTHORIZATION FORM and/or this AGREEMENT in writing and take over SUBCONTRACTOR'S work; and/or (e) take such action as necessary to cure SUBCONTRACTOR'S default . It is expressly agreed that in the event of an emergency affecting the safety of persons or property, CONTRACTOR may proceed to commence and continue satisfactory correction of such default, without first giving any written notice to SUBCONTRACTOR. Previous demands on SUBCONTRACTOR not followed by remedial action by CONTRACTOR shall not be deemed a waiver of CONTRACTOR's rights to do any of the above.

- 11.2. **TERMINATION FOR CONVENIENCE.** CONTRACTOR shall have the right to terminate this AGREEMENT, by seventy-two (72) hours written notice, without SUBCONTRACTOR being at fault, for any cause or for its own or OWNER'S convenience, including but not limited to OWNER'S termination of work, changes in scope of work, changes in design, change in market conditions, and a reduction in material costs exceeding ten percent. Upon notice of such termination, SUBCONTRACTOR shall immediately stop work. In addition, should CONTRACTOR wrongfully exercise its option set forth in Section 11.1 above, such termination will be considered a termination for convenience and shall be governed by this section. In the event CONTRACTOR gives SUBCONTRACTOR such notice, SUBCONTRACTOR shall withdraw its employees and equipment from the site on the effective date of termination as specified in said notice (which effective date shall not be less than three (3) working days after the date of notice) regardless of any claim SUBCONTRACTOR may or may not have against CONTRACTOR. SUBCONTRACTOR'S failure to do so shall entitle CONTRACTOR to bring an action for damages, including attorneys' fees, and/or to bring an action for injunctive relief. Under any termination for convenience, CONTRACTOR shall pay SUBCONTRACTOR only for that portion of the work actually performed. CONTRACTOR shall not be liable to SUBCONTRACTOR for any other costs or for prospective profits on work not performed or materials not delivered consequential damages, delay damages, or any other damages of any kind whatsoever. CONTRACTOR shall not be liable to SUBCONTRACTOR for any sum greater than that which CONTRACTOR receives from OWNER with respect to SUBCONTRACTOR'S work less any costs incurred by CONTRACTOR. SUBCONTRACTOR'S remedy under this section shall be exclusive. This clause shall survive termination of this AGREEMENT. SUBCONTRACTOR shall make its records available at reasonable times and places for CONTRACTOR'S audit. Upon receipt of payments provided for above, the parties hereto shall have no further obligation to each other except for SUBCONTRACTOR'S obligations to perform corrective, warranty, or latent defect obligations relating to the terminated for convenience WORK actually performed by SUBCONTRACTOR or any of its subcontractors and suppliers, at any tier, prior to termination and to indemnify, defend and hold harmless CONTRACTOR as provided for in the SUBCONTRACT DOCUMENTS, nor shall it relieve SUBCONTRACTOR'S surety of its obligations for and concerning any claim arising out of the WORK performed.
- 11.3. **COSTS:** All costs incurred by CONTRACTOR in performing the SUBCONTRACT WORK, plus 25% for overhead and profit, shall be deducted from any moneys due or to become due SUBCONTRACTOR under the WORK AUTHORIZATION FORM or from any other subcontract that the parties have between them. SUBCONTRACTOR shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the SUBCONTRACT PRICE. If the unpaid balance of the SUBCONTRACT PRICE exceeds the expense of finishing the SUBCONTRACT WORK, such excess shall be paid to SUBCONTRACTOR.
- 11.4. **USE OF SUBCONTRACTOR'S EQUIPMENT:** If CONTRACTOR performs work under this Article, or subcontracts such work to be so performed, CONTRACTOR and/or the persons to whom work has been subcontracted shall have the right to take and use any materials; implements, equipment, appliances or tools furnished by, belonging or delivered to SUBCONTRACTOR and located at the Project for the purpose of completing any remaining SUBCONTRACT WORK. Immediately upon completion of the SUBCONTRACT WORK, any remaining materials, implements, equipment, appliances or tools not consumed or incorporated in performance of the SUBCONTRACT WORK, and furnished by, belonging to, or delivered to the Project by or on behalf of SUBCONTRACTOR, shall be returned to SUBCONTRACTOR in substantially the same condition as when they were taken, normal wear and tear excepted.
- 11.5. **BANKRUPTCY; TERMINATION ABSENT CURE:** If SUBCONTRACTOR files a petition under the Bankruptcy Code, this AGREEMENT and all related WORK AUTHORIZATIONS FORMS shall terminate if SUBCONTRACTOR or SUBCONTRACTOR'S trustee rejects the AGREEMENT or any WORK AUTHORIZATION FORMS or, if there has been a default, SUBCONTRACTOR is unable to give adequate assurance that SUBCONTRACTOR will perform as required by this AGREEMENT and all related WORK AUTHORIZATIONS FORMS or otherwise is unable to comply with the requirements for assuming this AGREEMENT and all related WORK AUTHORIZATIONS FORMS under the applicable provisions of the Bankruptcy Code.

If SUBCONTRACTOR is not performing in accordance with the Schedule of Work at the time a petition in bankruptcy is filed, or at any subsequent time, CONTRACTOR, while awaiting the decision of SUBCONTRACTOR or its trustee to reject or to assume this AGREEMENT and all related WORK AUTHORIZATIONS FORMS and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies under this Article as are reasonably necessary to maintain the Schedule of Work.

12. SUSPENSION / TERMINATION AND OTHER CLAIMS AS AGAINST OWNER

In the event of a termination, suspension, delay or interruption of the WORK by OWNER, SUBCONTRACTOR upon written notification from CONTRACTOR of OWNER'S directive shall immediately terminate, suspend, delay or interrupt that portion of the SUBCONTRACT WORK as ordered by OWNER through CONTRACTOR and mitigate all costs.

CONTRACTOR'S liability to SUBCONTRACTOR for any damages caused by termination, suspension, delay or interruption directed by OWNER, including OWNER'S directive(s) deemed outside of the scope of the AGREEMENT and expressly including any claims for adjustments in the SUBCONTRACT PRICE and/or SUBCONTRACT TIME, shall be extinguished by CONTRACTOR pursuing or sponsoring said damages and claims against OWNER, on SUBCONTRACTOR'S behalf, and by awarding and paying over to SUBCONTRACTOR any additional time and/or money obtained from OWNER on SUBCONTRACTOR'S behalf. SUBCONTRACTOR shall be responsible for all costs and expenses incurred by CONTRACTOR in the pursuit or sponsorship of SUBCONTRACTOR'S claim. In the event SUBCONTRACTOR is unwilling to accept a settlement for its damages, which settlement is acceptable to CONTRACTOR; then SUBCONTRACTOR AUTOMATICALLY releases CONTRACTOR from any liability for SUBCONTRACTOR'S claim(s) upon CONTRACTOR'S assignment to SUBCONTRACTOR of SUBCONTRACTOR'S portion of CONTRACTOR'S claim(s) against OWNER.

13. DIVISIBILITY OF CONTRACT

If the WORK AUTHORIZATION FORM is for the performance of scope of work that is divisible, or the commencement date of the CONTRACT with OWNER is unreasonably delayed, suspended or cancelled, at the option of CONTRACTOR, CONTRACTOR may terminate the WORK AUTHORIZATION FORM for the WORK or any divisible portion that has not commenced without responsibility for damages resulting from such termination. Under no circumstances shall SUBCONTRACTOR be entitled to anticipatory, unearned profits or consequential damages as a result of a termination or partial termination of the CONTRACT.

14. ASSIGNMENT OF SUBCONTRACTS

14.1. Each subcontract agreement and/or WORK AUTHORIZATION FORM is assignable by CONTRACTOR to OWNER provided that: (a) assignment is effective only after termination of the CONTRACT by OWNER for cause, and only for those subcontract agreements and/or WORK AUTHORIZATION FORMS which OWNER accepts by notifying SUBCONTRACTOR and CONTRACTOR in writing; and (b) assignment is subject to the prior rights of the surety, if any, obligated under the bond relating to the CONTRACT.

14.2. SUBCONTRACTOR expressly agrees that CONTRACTOR may assign this SUBCONTRACT and/or any WORK AUTHORIZATION FORM to another subcontractor so that the scope of WORK encompassed herein falls under and be monitored by another subcontractor of CONTRACTOR. If that be the case, SUBCONTRACTOR would become a sub-subcontractor of MCM. In that event, CONTRACTOR shall remain equally liable to SUBCONTRACTOR/sub-subcontractor for payments and SUBCONTRACTOR/sub-subcontractor agrees to copy CONTRACTOR with any and all communications between sub-subcontractor and subcontractor in order to keep CONTRACTOR fully informed at all times with the progress and requirements of the WORK.

15. DISPUTE RESOLUTION

15.1. AGREEMENT TO MEDIATE; WAIVER OF JURY TRIAL; VENUE: Unless the parties mutually agree otherwise, all claims, disputes and other matters in question arising out of, or relating to, the SUBCONTRACT DOCUMENTS, or the breach thereof, except for claims which have been waived by the making or acceptance of final payment, shall first be mediated; and, unless otherwise resolved may then be submitted to a court of law. The location of mediation shall be in Miami-Dade County, Florida, unless the parties agree otherwise, and the venue for any litigation between the parties, including their respective sureties, shall be in Miami-Dade County, Florida, unless the parties agree otherwise. The parties hereby voluntarily waive trial by jury on any claims, disputes and other matters in question arising out of, or relating to, the SUBCONTRACT DOCUMENTS.

In the event the Prime Contract provides for arbitration or other non-judicial proceeding as the forum for the resolution of disputes, and a claim, dispute or other controversy exists between Owner and Contractor which may involve Subcontractor, Subcontractor hereby expressly agrees to be joined as an additional party in any and all such arbitration or other proceedings, or if a separate arbitration or other proceeding already exists or is separately initiated, Subcontractor expressly agrees to the consolidation of all such arbitration or other proceedings, it being the

intent of Contractor to resolve all of the rights and obligations of all interested parties at one time in one forum rather than in multiple proceedings.

15.2. WORK CONTINUATION AND PAYMENT: SUBCONTRACTOR shall carry on the SUBCONTRACT WORK and maintain the Schedule of Work pending final resolution of a claim, unless the AGREEMENT has been terminated or the SUBCONTRACT WORK suspended as provided for in the AGREEMENT or the parties otherwise agree in writing to a partial or total suspension of the SUBCONTRACT WORK. If SUBCONTRACTOR is continuing to perform in accordance with the AGREEMENT, CONTRACTOR shall continue to make payments as required by the AGREEMENT, but SUBCONTRACTOR acknowledges and agrees that it shall continue to diligently progress the WORK and that it shall not be entitled to suspend or cease work, notwithstanding the existence of any disputes between the parties including, but not limited to, denied claims, payment disputes, back charges and recognized claims for which agreement cannot be reached.

16. MISCELLANEOUS:

- 16.1. INCONSISTENCIES AND OMISSIONS:** Should inconsistencies or omissions appear in the SUBCONTRACT DOCUMENTS, it shall be the duty of SUBCONTRACTOR to so notify CONTRACTOR immediately in writing of SUBCONTRACTOR'S discovery thereof. Upon receipt of said notice, CONTRACTOR shall instruct SUBCONTRACTOR as to the measures to be taken and SUBCONTRACTOR shall comply with CONTRACTOR'S instructions. If SUBCONTRACTOR performs work knowing it to be contrary to any applicable laws, statutes, ordinances, building codes, rules or regulations without notice to CONTRACTOR and advance approval by appropriate authorities, including CONTRACTOR, then SUBCONTRACTOR shall assume full responsibility for such work and shall bear all associated costs, charges, fees and expenses necessarily incurred to remedy the violation.
- 16.2. APPLICABLE LAW:** This AGREEMENT and related WORK AUTHORIZATION FORMS shall be governed by the law of the State Florida.
- 16.3. SEVERABILITY AND WAIVER:** The partial or complete invalidity of any one or more provisions of this AGREEMENT shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this AGREEMENT, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.
- 16.4. TITLES:** The titles given to the Articles of this AGREEMENT are for ease of reference only and shall not be relied upon or cited or interpreted for any other purpose.
- 16.5. ENTIRE AGREEMENT:** This AGREEMENT is solely for the benefit of the signatories hereto and represents the entire and integrated agreement between the parties hereto and, unless specifically referenced herein, supersedes all prior negotiations, representations, or agreements, either written or oral.
- 16.6.** The failure of CONTRACTOR at any time to enforce, insist upon or require strict compliance with any of the terms and conditions of SUBCONTRACT DOCUMENTS shall not be construed as a waiver or condemnation of such terms or conditions or of its right to thereafter enforce each and every provision of SUBCONTRACT DOCUMENTS.
- 16.7.** All payments due from CONTRACTOR to SUBCONTRACTOR and unpaid under the SUBCONTRACT DOCUMENTS shall bear interest from the date payment was due at the rate of 0 % per annum. SUBCONTRACTOR waives its right to collect any prejudgment interest on any claim for payment for whatever cause in conjunction with any litigation, arbitration or non-judicial proceeding to collect payment.
- 16.8.** No provision of the SUBCONTRACT DOCUMENTS shall be construed by any court or other judicial authority against any party by reason of such party being deemed to have drafted or structured such provision.
- 16.9.** In the event of a dispute concerning any indemnity obligation of SUBCONTRACTOR hereunder, it is hereby stipulated and agreed that such provision or said provisions shall be interpreted as providing indemnification of CONTRACTOR.
- 16.10.** Until the Project is fully completed, SUBCONTRACTOR agrees not to perform any work directly for OWNER, or deal directly with OWNER or OWNER'S Representative(s) in connection with the Project, unless otherwise directed in writing by CONTRACTOR. All work for the Project performed by SUBCONTRACTOR shall be contracted through and handled exclusively by CONTRACTOR.
- 16.11.** Nothing contained in the SUBCONTRACT DOCUMENTS shall be construed as creating or attempting to create privity between SUBCONTRACTOR and OWNER.

16.12. SUBCONTRACTOR shall pay all attorneys' fees and costs incurred by CONTRACTOR in the enforcement of the terms and provisions of the SUBCONTRACT DOCUMENTS or arising from SUBCONTRACTOR'S breach of any of the terms and conditions thereof.

16.13. Any notice required or permitted to be given hereunder shall be deemed effective if given by personal delivery, overnight courier, or by United States Certified Mail/Return Receipt Requested, to the appropriate address indicated below or such other address as a party may designate in writing from time to time. Unless the PRIME CONTRACT provides otherwise, any such notice shall be deemed effective when delivered or five (5) days after deposit into the United States Mail addressed to such addresses, whichever occurs earlier. Notice may be made by facsimile to the appropriate number indicated below; however, to be effective fax notice must be followed by one of the forgoing described methods:

Notice to CONTRACTOR shall be delivered to:

MCM
6201 SW 70 STREET
2nd FLOOR
MIAMI, FL 33143

Notice to SUBCONTRACTOR shall be delivered to:

Structural Technologies, LLC
3001 Blount Rd
Pompano Beach FL 33069


IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first written above.

SUBCONTRACTOR: (SEAL)

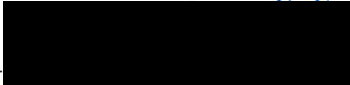
CONTRACTOR: (SEAL)


STRUCTURAL TECHNOLOGIES LLC

MCM

BY: 
Yosbany Ballate, Assistant Secretary Date

BY:  2/7/14
Alexis Leal, Vice President Date

WITNESS: 

WITNESS: 

PRINT: Zoraya Koccalo

PRINT: Lissette C. Alonso ISIS AMADOR

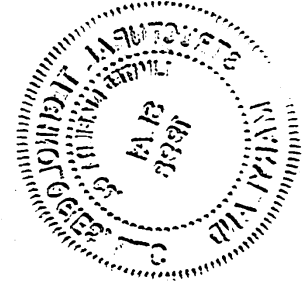


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Addendum to Master Subcontract
Agreement executed by Structural
Technologies and MCM.



**ADDENDUM TO MASTER SUBCONTRACT
AGREEMENT BETWEEN
MCM AND
STRUCURAL TECHNOLOGIES, LLC DATED ON OCTOBER 24, 2016**

The parties hereby agree to be bound to the terms contained in the Agreement between STRUCURAL TECHNOLOGIES, LLC and Munilla Construction Management, LLC d/b/a MCM (the "Agreement"), together with those terms contained in this Addendum. Provided, however, that notwithstanding any terms contained in the Agreement to the contrary, in the event of conflict between terms contained in the Agreement and terms contained in this Addendum, the terms in this Addendum shall supersede and prevail.

Page 2: End of Section 1 insert: "Notwithstanding the foregoing, the PRIME CONTRACT shall only include documents that the CONTRACTOR has provided to the SUBCONTRACTOR prior to the execution of the WORK AUTHORIZATION FORM."

Page 8: INDEMNIFICATION: Delete the 2nd paragraph in its entirety.



Subcontractor: (SEAL)

STRUCURAL TECHNOLOGIES, LLC

[Redacted Signature]

BY: Yosbany Ballate, Assistant Secretary Date

WITNESS: [Redacted Signature]

PRINT: Zoraya Konallo



Contractor: (SEAL)

MCM

[Redacted Signature]

BY: Alexis Leal, Director of Corporate Operations Date 12/7/16

WITNESS: [Redacted Signature]

PRINT: Lissette C. Alonso ISIS AMADOR



STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

OFFICE OF THE SUPERVISOR OF WORKERS' COMPENSATION

NOTICE TO THE EMPLOYER AND EMPLOYEE CONCERNING THE
EMPLOYEE'S RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT HIM OR HER
IN CONNECTION WITH A WORKERS' COMPENSATION CLAIM. THE
EMPLOYEE HAS THE RIGHT TO CHOOSE AN ATTORNEY TO REPRESENT HIM OR HER
IN CONNECTION WITH A WORKERS' COMPENSATION CLAIM. THE EMPLOYEE
MAY CHOOSE AN ATTORNEY AT ANY TIME, EVEN AFTER THE CLAIM HAS
BEEN FILED WITH THE DIVISION OF WORKERS' COMPENSATION.

IF THE EMPLOYEE DOES NOT CHOOSE AN ATTORNEY, THE DIVISION OF
WORKERS' COMPENSATION WILL ASSIGN AN ATTORNEY TO REPRESENT HIM OR HER.
THE EMPLOYEE'S CHOICE OF ATTORNEY IS SUBJECT TO THE APPROVAL OF THE
DIVISION OF WORKERS' COMPENSATION.

FOR MORE INFORMATION, CONTACT THE DIVISION OF WORKERS' COMPENSATION AT (916) 227-2300.



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