

# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**May 15, 2023**

**BOARD OF SUPERVISORS**

## **REGULAR MEETING AGENDA**

**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**AGENDA**  
**LETTER**

**Newport Isles Community Development District**  
**OFFICE OF THE DISTRICT MANAGER**  
**2300 Glades Road, Suite 410W•Boca Raton, Florida 33431**  
**Phone: (561) 571-0010•Toll-free: (877) 276-0889•Fax: (561) 571-0013**

May 8, 2023

Board of Supervisors  
Newport Isles Community Development District

Dear Board Members:

The Board of Supervisors of the Newport Isles Community Development District will hold a Regular Meeting on May 15, 2023 at 10:00 a.m., at WRA Engineering, 7978 Cooper Creek Blvd., Suite 102, University Park, Florida 34201. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments
3. Consider Appointment to Fill Unexpired Term of Vacant Seat 3 (*Term Expires November 2024*)
  - Administration of Oath of Office to Newly Appointed Supervisor (*the following will be provided in a separate package*)
    - I. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees
    - II. Membership, Obligations and Responsibilities
    - III. Financial Disclosure Forms
      - a. Form 1: Statement of Financial Interests
      - b. Form 1X: Amendment to Form 1, Statement of Financial Interests
      - c. Form 1F: Final Statement of Financial Interests
    - IV. Form 8B – Memorandum of Voting Conflict
4. Consideration of Resolution 2023-01, Designating Certain Officers of the District, and Providing for an Effective Date
5. Consideration of Work Authorization for Engineering Services
6. Ratification of Engagement with Jere Earlywine at Kutak Rock LLP
  - Consideration of Retention and Fee Agreement

**ATTENDEES:**

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

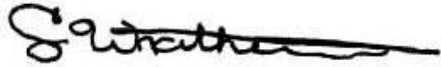
7. Ratification of Conflict Waiver
8. Consideration of Resolution 2023-02, Approving the Proposed Budget for Fiscal Year 2023/2024 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing for an Effective Date
9. Ratification of RIPA & Associates, LLC Items
  - A. Mass Grading South Agreement
  - B. Demand Note Agreement
  - C. Change Order #1 – Blvd. East West Road Proposal
10. Ratification of Manatee County Tax Collector Uniform Collection Agreement
11. Acceptance of Unaudited Financial Statements as of March 31, 2023
12. Approval of October 26, 2022 Regular Meeting Minutes
13. Staff Reports
  - A. District Counsel: *Kutak Rock LLP*
  - B. District Engineer: *WRA Engineering, LLC*
  - C. District Manager: *Wrathell, Hunt & Associates, LLC*
    - 0 Registered Voters in District as of April 15, 2023
    - NEXT MEETING DATE: June 19, 2023 at 10:00 AM
    - QUORUM CHECK

SEAT 1	SUSAN COLLINS	<input type="checkbox"/>	IN PERSON	<input type="checkbox"/>	PHONE	<input type="checkbox"/>	NO
SEAT 2	RICHARD JAMES	<input type="checkbox"/>	IN PERSON	<input type="checkbox"/>	PHONE	<input type="checkbox"/>	NO
SEAT 3		<input type="checkbox"/>	IN PERSON	<input type="checkbox"/>	PHONE	<input type="checkbox"/>	NO
SEAT 4	CLIFTON FISCHER	<input type="checkbox"/>	IN PERSON	<input type="checkbox"/>	PHONE	<input type="checkbox"/>	NO
SEAT 5	JAKE ESSMAN	<input type="checkbox"/>	IN PERSON	<input type="checkbox"/>	PHONE	<input type="checkbox"/>	NO

14. Board Members' Comments/Requests
15. Public Comments
16. Adjournment

If you should have any questions or concerns, please do not hesitate to contact me directly at (561) 719-8675 or Kristen Suit at (410) 207-1802.

Sincerely,



Craig Wrathell  
District Manager

**FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE**

**CALL-IN NUMBER: 1-888-354-0094**

**PARTICIPANT PASSCODE: 943 865 3730**

# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**4**

**RESOLUTION 2023-01**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT DESIGNATING CERTAIN OFFICERS OF THE DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Newport Isles Community Development District (“District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes; and

**WHEREAS**, the Board of Supervisors of the District desires to designate certain Officers of the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT:**

**SECTION 1.** \_\_\_\_\_ is appointed Chair.

**SECTION 2.** \_\_\_\_\_ is appointed Vice Chair.

**SECTION 3.** \_\_\_\_\_ is appointed Assistant Secretary.

\_\_\_\_\_ is appointed Assistant Secretary.

\_\_\_\_\_ is appointed Assistant Secretary.

**Kristen Suit** \_\_\_\_\_ is appointed Assistant Secretary.

**SECTION 4.** This Resolution supersedes any prior appointments made by the Board for Chair, Vice Chair and Assistant Secretaries; however, prior appointments by the Board for Secretary, Treasurer and Assistant Treasurer(s) remain unaffected by this Resolution.

**SECTION 5.** This Resolution shall become effective immediately upon its adoption.

[REMAINDER OF PAGE INTENTIONALL LEFT BLANK]

**PASSED AND ADOPTED** this 15th day of May, 2023.

ATTEST:

**NEWPORT ISLES COMMUNITY  
DEVELOPMENT DISTRICT**

---

Secretary/Assistant Secretary

---

Chair/Vice Chair, Board of Supervisors



# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**5**

# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**6**



Newport Isles Community Development District  
c/o Craig Wrathell and David Berner  
Wrathell, Hunt & Associates, LLC  
2300 Glades Road Suite 410W  
Boca Raton, Florida 33431  
wrathellc@whhassociates.com  
dberner@southeastlandconsultants.com

RE: District Counsel Matter

Dear Sirs or Madams,

Effective February 6, 2023, Jere Earlywine will resign from KE LAW GROUP PLLC to join the law firm of KUTAK ROCK LLP.

Mr. Earlywine was providing services to you on the above-referenced matter. Therefore, this letter is to inform you that you have the option to choose to have Mr. Earlywine continue to represent you in this matter at his new law firm, or you may have KE LAW GROUP PLLC continue to represent you, in which case representation will be handled by Lauren Gentry and Meredith Hammock, out of our Tampa office. Alternatively, you can choose to retain an entirely new lawyer.

If you wish to have Jere Earlywine or a new lawyer continue to represent you, please be aware that you remain liable for fees and costs for services already provided by members of KE LAW GROUP PLLC through the date of this letter. We have attached for your convenience the most recent invoices for payment, which are exclusive of time that may have been incurred in the months of January or February. Further, given the manner in which legal fees for open financing matters are structured, no fee has been paid to date. Should you elect to have this matter go with Mr. Earlywine, the fee will be apportioned between KE LAW GROUP PLLC and/or KUTAK ROCK LLP as they may agree, failing which the apportionment will be determined by dispute resolution proceedings.

Please advise Jere Earlywine and us in writing, as quickly as possible, of the Board's decision so that continuity in your representation is assured. You may do so by indicating your choice below and returning a signed and dated copy. ~~Please retain~~ the additional copy of this designation letter for your records.

Yours truly,

  
\_\_\_\_\_  
KE LAW GROUP PLLC

**Instructions**

I wish my file to stay with KE LAW GROUP PLLC.

I wish my file and trust account balance to be transferred to Jere Earlywine at KUTAK ROCK LLP.

I will retain new counsel and have them contact KE LAW GROUP PLLC to coordinate transfer of my file.

  
\_\_\_\_\_  
For the Client



# INVOICE

Invoice # 4959  
Date: 12/09/2022  
Due On: 01/08/2023

## KE Law Group, PLLC

P.O. Box 6386  
Tallahassee, Florida 32314

Newport Isles CDD  
2300 Glades Rd. Suite 410W  
Boca Raton, Florida 33431

### NICDD-01

### Newport Isles CDD - General

Type	Professional	Date	Notes	Quantity	Rate	Total
Expense	AL	11/01/2022	Mileage for Travel - 44.5 cents/mile: MH-Mileage for BOS	66.00	\$0.445	\$29.37
Service	KI	11/01/2022	Record temporary construction easement agreement.	0.10	\$195.00	\$19.50
Service	KI	11/02/2022	Review recorded temporary construction easement.	0.10	\$195.00	\$19.50
Expense	AL	11/04/2022	Simplifile Recording: NICDD/01-Temporary Construction Easement Agreement	1.00	\$74.75	\$74.75
Service	AL	11/04/2022	Review and organize district records.	0.10	\$225.00	\$22.50
Service	KI	11/04/2022	Review and organize district records.	0.10	\$195.00	\$19.50
Service	AL	11/20/2022	Review project status.	0.10	\$225.00	\$22.50
Service	JE	11/26/2022	Review and revise agreement relating to CDD bond issuances; follow-up email regarding the same.	0.70	\$325.00	\$227.50
Service	JE	11/28/2022	Review and revise CDD language for builder contract from CDD perspective; email regarding the same.	0.40	\$325.00	\$130.00
<b>Total</b>						<b>\$565.12</b>

## Detailed Statement of Account

### Other Invoices

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
5229	02/08/2023	\$3,542.50	\$0.00	\$3,542.50

### Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
4959	01/08/2023	\$565.12	\$0.00	\$565.12
<b>Outstanding Balance</b>				<b>\$4,107.62</b>
<b>Total Amount Outstanding</b>				<b>\$4,107.62</b>

Please make all amounts payable to: KE Law Group, PLLC

Please pay within 30 days.



# INVOICE

Invoice # 5229  
Date: 01/09/2023  
Due On: 02/08/2023

## KE Law Group, PLLC

P.O. Box 6386  
Tallahassee, Florida 32314

Newport Isles CDD  
2300 Glades Rd. Suite 410W  
Boca Raton, Florida 33431

### NICDD-01

### Newport Isles CDD - General

Type	Professional	Date	Notes	Quantity	Rate	Total
Service	JE	12/05/2022	Review and revise addendum to mass grading contract; prepare email regarding the same.	2.30	\$325.00	\$747.50
Service	JE	12/13/2022	Conference call regarding construction contract; follow-up; prepare form of custodial account requisition; email regarding the same.	1.10	\$325.00	\$357.50
Service	JE	12/15/2022	Prepare demand note agreement; emails regarding that and RIPA contract.	1.20	\$325.00	\$390.00
Service	JE	12/16/2022	Conference call regarding construction contract and PSA; email regarding the same.	0.60	\$325.00	\$195.00
Service	JE	12/19/2022	Confer with RIPA representative regarding demand note agreement; revise same; email regarding the same.	0.80	\$325.00	\$260.00
Service	JE	12/21/2022	Review and revise PSA exhibit language; prepare cap agreement; calls with Berner and Bulleit regarding assessment levels.	2.90	\$325.00	\$942.50
Service	JE	12/23/2022	Review and revise master CDD language and CDD agreement; email regarding the same.	1.80	\$325.00	\$585.00
Service	JE	12/26/2022	Email regarding PSA and CDD assessment cap agreement.	0.20	\$325.00	\$65.00
<b>Total</b>						<b>\$3,542.50</b>

## Detailed Statement of Account

### Other Invoices

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
4959	01/08/2023	\$565.12	\$0.00	\$565.12

### Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
5229	02/08/2023	\$3,542.50	\$0.00	\$3,542.50
<b>Outstanding Balance</b>				<b>\$4,107.62</b>
<b>Total Amount Outstanding</b>				<b>\$4,107.62</b>

Please make all amounts payable to: KE Law Group, PLLC

Please pay within 30 days.

## RETENTION AND FEE AGREEMENT

### I. PARTIES

THIS RETENTION AND FEE AGREEMENT (“**Agreement**”) is made and entered into by and between the following parties:

- A. Newport Isles Community Development District (“**Client**”)  
c/o Wrathell, Hunt & Associates, LLC  
2300 Glades Road, Suite 410W  
Boca Raton, Florida 33431

and

- B. Kutak Rock LLP (“**Kutak Rock**”)  
107 West College Avenue  
Tallahassee, Florida 32301

### II. SCOPE OF SERVICES

In consideration of the mutual undertakings and agreements contained herein, the parties agree as follows:

- A. The Client agrees to employ and retain Kutak Rock as its attorney and legal representative for general advice, counseling and representation of Client and its Board of Supervisors.
- B. Kutak Rock accepts such employment and agrees to serve as attorney for and provide legal representation to the Client in connection with those matters referenced above. No other legal representation is contemplated by this Agreement. Any additional legal services to be provided under the terms of this Agreement shall be agreed to by Client and Kutak Rock in writing. Unless set forth in a separate agreement to which Client consents in writing, Kutak Rock does not represent individual members of the Client’s Board of Supervisors.

### III. CLIENT FILES

The files and work product materials (“**Client File**”) of the Client generated or received by Kutak Rock will be maintained confidentially to the extent permitted by law and in accordance with the Florida Bar rules. At the conclusion of the representation, the Client File will be stored by Kutak Rock for a minimum of five (5) years. After the five (5) year storage period, the Client hereby acknowledges and consents that Kutak Rock may confidentially destroy or shred the Client File. Notwithstanding the prior sentence, if the Client provides Kutak Rock with a written request for the return of the Client File before the end of the five (5) year storage period, then Kutak Rock will return the Client File to Client at Client’s expense.



**IV. FEES**

- A. The Client agrees to compensate Kutak Rock for services rendered in connection with any matters covered by this Agreement on an hourly rate basis plus actual expenses incurred by Kutak Rock in accordance with the attached Expense Reimbursement Policy (Attachment A, incorporated herein by reference). Time will be billed in increments of one-tenth (1/10) of an hour. Certain work related to issuance of bonds and bond anticipation notes may be performed under a flat fee to be separately established prior to or at the time of bond or note issuance.
- B. Attorneys and staff, if applicable, who perform work for Client will be billed at their regular hourly rates, as may be adjusted from time to time. The hourly rates of those initially expected to handle the bulk of Client’s work are as follows:

Jere Earlywine	\$335
Associates	\$275
Contract Attorney	\$235
Paralegals	\$190

Kutak Rock’s regular hourly billing rates are reevaluated annually and are subject to change not more than once in a calendar year. Client agrees to Kutak Rock’s annual rate increases to the extent hourly rates are not increased beyond \$15/hour.

- C. To the extent practicable and consistent with the requirements of sound legal representation, Kutak Rock will attempt to reduce Client’s bills by assigning each task to the person best able to perform it at the lowest rate, so long as he or she has the requisite knowledge and experience.
- D. Upon consent of Client, Kutak Rock may subcontract for legal services in the event that Client requires legal services for which Kutak Rock does not have adequate capabilities.
- E. Kutak Rock will include costs and expenses (including interest charges on past due statements) on its billing statements for Client reimbursement in accordance with the attached Expense Reimbursement Policy.

**V. BILLING AND PAYMENT**

The Client agrees to pay Kutak Rock’s monthly billings for fees and expenses incurred within thirty (30) days following receipt of an invoice, or the time permitted by Florida law, whichever is greater. Kutak Rock shall not be obligated to perform further legal services under this Agreement if any such billing statement remains unpaid longer than thirty (30) days after submittal to and receipt by Client. Non-payment of billing statements shall be a basis for Kutak Rock to immediately withdraw from the representation without regard to remaining actions necessitating attention by Kutak Rock as part of the representation.

## **VI. DEFAULT; VENUE**

In any legal proceeding to collect outstanding balances due under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to costs and outstanding balances due under this Agreement. Venue of any such action shall be exclusive in the state courts of the Second Judicial Circuit in and for Leon County, Florida.

## **VII. CONFLICTS**

It is important to disclose that Kutak Rock represents a number of special districts, trustees ("Trustees"), bondholders, developers, builders, and other entities throughout Florida and the United States of America relating to community development districts, special districts, local governments and land development. Kutak Rock or its attorneys may also have represented the entity which petitioned for the formation of the Client. Kutak Rock understands that Client may enter into an agreement with a Trustee in connection with the issuance of bonds, and that Client may request that Kutak Rock simultaneously represent Client in connection with the issuance of bonds, while Kutak Rock is also representing such Trustee on unrelated matters. By accepting this Agreement Client agrees that (1) Client was provided with an explanation of the implications of the common representation(s) and the advantages and risks involved; (2) Kutak Rock will be able to provide competent and diligent representation of Client, regardless of Kutak Rock's other representations, and (3) there is not a substantial risk that Kutak Rock's representation of Client would be materially limited by Kutak Rock's responsibilities to another client, a former client or a third person or by a personal interest. Acceptance of this Agreement will constitute Client's waiver of any "conflict" with Kutak Rock's representation of various special districts, Trustees, bondholders, developers, builders, and other entities relating to community development districts, special districts, local governments and land development.

## **VIII. ACKNOWLEDGMENT**

Client acknowledges that the Kutak Rock cannot make any promises to Client as to the outcome of any legal dispute or guarantee that Client will prevail in any legal dispute.

## **IX. TERMINATION**

Either party may terminate this Agreement upon providing prior written notice to the other party at its regular place of business. All fees due and payable in accordance with this Agreement shall accrue and become payable pursuant to the terms of this Agreement through the date of termination.

## **X. EXECUTION OF AGREEMENT**

This Agreement shall be deemed fully executed upon its signing by Kutak Rock and the Client. The contract formed between Kutak Rock and the Client shall be the operational contract between the parties.

**XI. ENTIRE CONTRACT**

This Agreement constitutes the entire agreement between the parties.

Accepted and Agreed to:

**NEWPORT ISLES COMMUNITY  
DEVELOPMENT DISTRICT**

**KUTAK ROCK LLP**

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

Its: \_\_\_\_\_

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



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

Jere L. Earlywine

Date: March 6, 2023

## ATTACHMENT A

### KUTAK ROCK LLP CDD EXPENSE REIMBURSEMENT POLICY

The following is Kutak Rock's expense reimbursement policy for community development district representation. This policy applies unless a different arrangement has been negotiated based on the unique circumstances of a particular client or matter.

All expenses are billed monthly. Billings ordinarily reflect expenses for the most recent month, except where there are delays in receiving bills from third party vendors.

Photocopying and Printing. In-house photocopying and printing are charged at \$0.25 per page (black & white) and \$0.50 per page (color). Outside copying is billed as a pass-through of the outside vendor's charges.

Postage. Postage is billed at actual cost.

Overnight Delivery. Overnight delivery is billed at actual cost.

Local Messenger Service. Local messenger service is billed pursuant to the State of Florida approved reimbursement rate (i.e., pursuant to Chapter 112, Florida Statutes). Should the State of Florida increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate.

Computerized Legal Research. Charges for computerized legal research are billed at an amount approximating actual cost.

Travel. Travel (including air fare, rental cars, taxicabs, hotel, meals, tips, etc.) is billed at actual cost. Where air travel is required, coach class is used wherever feasible. Out-of-town mileage is billed pursuant to the State of Florida approved reimbursement rate (i.e., pursuant to Chapter 112, Florida Statutes). Should the State of Florida increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate. Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, and parking fees shall also be reimbursed.

Consultants. Unless prior arrangements are made, consultants are ordinarily employed directly by the client. Where consulting or testifying experts are employed by the firm, their charges are passed through with no mark-up. The client is responsible for notifying the firm of any particular billing arrangements or procedures which the client requires of the consulting or testifying experts.

Other Expenses. Other outside expenses, such as court reporters, agency copies, conference calls, etc. are billed at actual cost.

# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**7**

March 23, 2023

VIA E-MAIL

Newport Isles Community Development District  
Susan Collins, Chairperson  
c/o Kristen Suit, District Manager  
Wrathell, Hunt & Associates, LLC  
2300 Glades Road, Suite 410W  
Boca Raton, Florida 33431  
[susan@cornerstonelandcompany.com](mailto:susan@cornerstonelandcompany.com)  
[suitk@whhassociates.com](mailto:suitk@whhassociates.com)

Cornerstone Land Company, LLC  
c/o Tom Chapman, Manager  
1901 Ulmerton Road #475  
Clearwater, Florida 33762  
[tom@cornerstonelandcompany.com](mailto:tom@cornerstonelandcompany.com)

Taylor Morrison of Florida, Inc.  
c/o Todd Merrill, General Counsel  
Rob Barber, Vice President of Land Acquisition  
3923 Coconut Palm Drive  
Tampa, Florida 33619  
[tmerrill@taylormorrison.com](mailto:tmerrill@taylormorrison.com)  
[rbarber@taylormorrison.com](mailto:rbarber@taylormorrison.com)

Re: Conflict Waiver / Newport Isles Community Development District

Dear Ladies and Gentlemen,

As you know, Kutak Rock (“Firm”) represents the Newport Isles Community Development District (“CDD”) as general counsel. Also, the Firm represents Taylor Morrison of Florida, Inc. (“TM”) in connection with, among other matters, the establishment of various community development districts in Florida other than the CDD (“TM Matters”). Further, the Firm previously represented Cornerstone Land Company, LLC and/or its affiliates (“Cornerstone”) in connection with the establishment of the CDD (“Cornerstone Matters”).

We have been advised that TM is entering into a purchase and sale agreement with Cornerstone to acquire certain property within the CDD (“Transaction”). Cornerstone and TM have asked the Firm to provide legal work in connection with the Transaction by: (1) reviewing and advising upon a portion of the PSA related to the CDD, and (2) by preparing and/or revising a “Completion and Debt Assessment Cap Agreement” relating to the CDD financing and assessment proceedings. To be clear, our intent is to represent the CDD in the Transaction, although we anticipate that from time to time we may answer

# KUTAKROCK

questions and/or provide guidance and written changes to either Cornerstone or TM in connection with CDD matters relating to the Transaction. We strongly encourage Cornerstone and TM to retain their own real estate counsel familiar with CDD matters to ensure that their individual interests are protected.

Our Firm's participation in connection with the Transaction may raise an actual or potential conflicts of interest ("Conflict") due to our representation of TM in the TM Matters, and due to our prior representation of Cornerstone and/or its affiliates in connection with the Cornerstone Matters. Pursuant to the Florida Bar Rules 4-1.7 and 4-1.9, we are seeking the consent of the CDD, TM and Cornerstone to participate in the Transaction. Generally stated, such representation is possible only if (i) the Conflict is fully disclosed to all parties, (ii) there is not a substantial risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, (iii) we reasonably believe that we will be able to provide competent and diligent representation to each affected client in connection with the Transaction; (iv) our representation does not violate any legal requirements, such as our duty to protect the confidentiality of information, and (v) each client gives informed consent in writing.

We have examined the proposed representation and after careful consideration we have concluded that there is not a substantial risk that the representation of one or more clients will be materially limited by our responsibilities to another client, and that we reasonably believe that we will be able to provide competent and diligent representation in connection with the Transaction. This conclusion is based in part on (i) the unrelated nature of the Transaction and the TM Matters and Cornerstone Matters, and (ii) the fact that Cornerstone and TM have the opportunity to be represented by other capable counsel in the Transaction.

Please be aware that the Firm must maintain a duty of loyalty and confidentiality to each client. In accordance with the applicable ethical rules and the Firm's policies, all proprietary or other confidential information and material disclosed to us by one client will not be disclosed to the other client unless required by law. If the Firm learns of confidential information about one client that is relevant to the interests of the other client, all clients will be notified of the Conflict (without disclosing the nature of the information), and the Firm may be required to withdraw from its representation of the clients. That said, note that, subject to certain limited exceptions set forth in law, all documentation provided to us is a public record under Florida's Public Records Laws, and the parties should govern themselves accordingly.

Furthermore, in the event that a dispute arises between or among the CDD, TM or Cornerstone in connection with the Transaction, the Firm shall not represent any of the parties in any litigation or arbitration proceedings relating to the Transaction.

In light of the factors reflected above, we believe that the Conflict described is waivable under the Florida Bar Rules. In making the decision to consent to the Conflict, the CDD, TM and Cornerstone should consider whether the Firm's participation in the Transaction would enable the Firm to provide competent and diligent representation to each affected client in connection with the Transaction. For example, the CDD, TM and Cornerstone should consider whether there is a material risk that the Firm would be less zealous in representing the parties due to the fact that the Firm also represents and/or represented the other parties. We encourage the CDD, TM and Cornerstone to seek independent legal counsel regarding the consideration of the Conflict.

[CONTINUED ON NEXT PAGE]

# KUTAKROCK

If the parties agree to consent to the Conflict as described above, please sign and return to us a copy of this letter. Thank you for your attention to this matter. If you have any questions, please let us know.

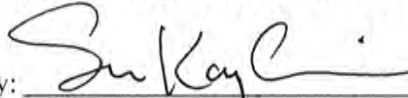
Sincerely yours,



Jere Earlywine, Esq.

AGREED TO AND ACCEPTED:

NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT

By:   
Title: CHAIR  
Date: 3.23.2023

CORNERSTONE LAND COMPANY, LLC

By:   
Title: MANAGER  
Date: 3.23.2023

TAYLOR MORRISON OF FLORIDA, INC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Tucker Mackie and Sarah Sandy, Kutak Rock, LLP



# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

**8**

**RESOLUTION 2023-02**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT APPROVING THE PROPOSED BUDGET FOR FISCAL YEAR 2023/2024 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW; ADDRESSING TRANSMITTAL, POSTING AND PUBLICATION REQUIREMENTS; ADDRESSING SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the District Manager has prepared and submitted to the Board of Supervisors (“**District**”) of the Newport Isles Community Development District (“**Board**”), prior to June 15, 2023, the proposed budget (“**Proposed Budget**”) for the Fiscal Year beginning October 1, 2023 and ending September 30, 2024 (“**Fiscal Year 2023/2024**”); and

**WHEREAS**, the Board has considered the Proposed Budget and desires to set the required public hearing thereon.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT:**

**SECTION 1. PROPOSED BUDGET APPROVED.** The Proposed Budget prepared by the District Manager for Fiscal Year 2023/2024, attached hereto as **Exhibit A**, is hereby approved as the basis for conducting a public hearing to adopt said Proposed Budget.

**SECTION 2. SETTING A PUBLIC HEARING.** A public hearing on said approved Proposed Budget is hereby declared and set for the following date, hour, and location:

**DATE:** \_\_\_\_\_

**HOUR:** \_\_\_\_\_

**LOCATION:** WRA Engineering  
7978 Cooper Creek Blvd., Suite 102  
University Park, Florida 34201

**SECTION 3. TRANSMITTAL OF PROPOSED BUDGET TO LOCAL GENERAL PURPOSE GOVERNMENTS.** The District Manager is hereby directed to submit a copy of the Proposed Budget to Manatee County at least sixty (60) days prior to the hearing set above.

**SECTION 4. POSTING OF PROPOSED BUDGET.** In accordance with Section 189.016, *Florida Statutes*, the District’s Secretary is further directed to post the approved Proposed Budget on the District’s website at least two (2) days before the budget hearing date as set forth in Section 2 and shall remain on the website for at least forty-five (45) days.

**SECTION 5. PUBLICATION OF NOTICE.** Notice of this public hearing shall be published in the manner prescribed in Florida law.

**SECTION 6. SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this Resolution shall not affect the validity or enforceability of the remaining portions of this Resolution, or any part thereof.

**SECTION 7. EFFECTIVE DATE.** This Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** this 15th day of May, 2023.

ATTEST:

**NEWPORT ISLES COMMUNITY  
DEVELOPMENT DISTRICT**

\_\_\_\_\_  
Secretary/Assistant Secretary

\_\_\_\_\_  
Chair/Vice Chair, Board of Supervisors

**Exhibit A:** Fiscal Year 2023/2024 Proposed Budget

**Exhibit A: Fiscal Year 2023/2024 Proposed Budget**

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
PROPOSED BUDGET  
FISCAL YEAR 2024**

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
TABLE OF CONTENTS**

<u>Description</u>	<u>Page Number(s)</u>
General Fund Budget	1
Definitions of General Fund Expenditures	2

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND BUDGET  
FISCAL YEAR 2024**

	Fiscal Year 2023				Proposed Budget FY 2024
	Adopted Budget FY 2023	Actual through 3/31/2023	Projected through 9/30/2023	Total Actual & Projected	
<b>REVENUES</b>					
Landowner contribution	\$ 112,326	\$ 42,288	\$ 70,038	\$ 112,326	\$ 112,326
Total revenues	<u>112,326</u>	<u>42,288</u>	<u>70,038</u>	<u>112,326</u>	<u>112,326</u>
<b>EXPENDITURES</b>					
<b>Professional &amp; administrative</b>					
Supervisors	7,536	861	6,675	7,536	7,536
Management/accounting/recording	48,000	24,000	24,000	48,000	48,000
Legal	25,000	10,222	14,778	25,000	25,000
Engineering	2,000	-	2,000	2,000	2,000
Audit	5,500	-	5,500	5,500	5,500
Arbitrage rebate calculation*	500	-	500	500	500
Dissemination agent*	1,000	-	1,000	1,000	1,000
Debt service fund accounting: 1st series	7,500	-	7,500	7,500	7,500
Trustee*	5,500	-	5,500	5,500	5,500
Telephone	200	100	100	200	200
Postage	500	-	500	500	500
Printing & binding	500	250	250	500	500
Legal advertising	1,500	-	1,500	1,500	1,500
Annual special district fee	175	175	-	175	175
Insurance	5,500	5,000	500	5,500	5,500
Contingencies/bank charges	500	-	500	500	500
Website hosting & maintenance	705	1,680	(975)	705	705
Website ADA compliance	210	-	210	210	210
Total expenditures	<u>112,326</u>	<u>42,288</u>	<u>70,038</u>	<u>112,326</u>	<u>112,326</u>
Excess/(deficiency) of revenues over/(under) expenditures	-	-	-	-	-
Fund balance - beginning (unaudited)	-	-	-	-	-
Fund balance - ending	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

\* These items will be realized when bonds are issued

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
DEFINITIONS OF GENERAL FUND EXPENDITURES**

**EXPENDITURES**

**Professional & administrative**

Management/accounting/recording	\$ 48,000
<p><b>Wrathell, Hunt and Associates, LLC</b> (WHA), specializes in managing community development districts by combining the knowledge, skills and experience of a team of professionals to ensure compliance with all of the District's governmental requirements. WHA develops financing programs, administers the issuance of tax exempt bond financings, operates and maintains the assets of the community.</p>	
Legal	25,000
<p>General counsel and legal representation, which includes issues relating to public finance, public bidding, rulemaking, open meetings, public records, real property dedications, conveyances and contracts.</p>	
Engineering	2,000
<p>The District's Engineer will provide construction and consulting services, to assist the District in crafting sustainable solutions to address the long term interests of the community while recognizing the needs of government, the environment and maintenance of the District's facilities.</p>	
Audit	5,500
<p>Statutorily required for the District to undertake an independent examination of its books, records and accounting procedures.</p>	
Arbitrage rebate calculation*	500
<p>To ensure the District's compliance with all tax regulations, annual computations are necessary to calculate the arbitrage rebate liability.</p>	
Dissemination agent*	1,000
<p>The District must annually disseminate financial information in order to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934. Wrathell, Hunt &amp; Associates serves as dissemination agent.</p>	
Debt service fund accounting: 1st series	7,500
Trustee	5,500
<p>Annual fee for the service provided by trustee, paying agent and registrar.</p>	
Telephone	200
<p>Telephone and fax machine.</p>	
Postage	500
<p>Mailing of agenda packages, overnight deliveries, correspondence, etc.</p>	
Printing & binding	500
<p>Letterhead, envelopes, copies, agenda packages</p>	
Legal advertising	1,500
<p>The District advertises for monthly meetings, special meetings, public hearings, public bids, etc.</p>	
Annual special district fee	175
<p>Annual fee paid to the Florida Department of Economic Opportunity.</p>	
Insurance	5,500
<p>The District will obtain public officials and general liability insurance.</p>	
Contingencies/bank charges	500
<p>Bank charges and other miscellaneous expenses incurred during the year and automated AP routing etc.</p>	
Website hosting & maintenance	705
Website ADA compliance	210
Total expenditures	<u><u>\$112,326</u></u>



**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**9A**

# AIA® Document A101® – 2017

## **Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

AGREEMENT made as of the 02 day of FEBRUARY in the year 2023  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

, Newport Isles Community Development District  
1901 Ulmerton Road, Suite 475, Clearwater, FL 33762  
Telephone Number: 727-599-4603

and the Contractor:  
(Name, legal status, address and other information)

Chris LaFace, Ripa & Associates, LLC  
1409 Tech Blvd., Suite 1, Tampa, FL 33619  
Telephone Number: 8136636766  
Fax Number: 813-663-6722

for the following Project:  
(Name, location and detailed description)

Newport Isles  
Buckeye Road, Palmetto, FL  
Mass Grading South

The Architect:  
(Name, legal status, address and other information)

Clint Cuffle, WRA  
7978 Cooper Creek Blvd., Suite 102, University Park, FL 34201  
Telephone Number: 941-348-3824  
Fax Number: 813-275-9729

The Owner and Contractor agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

**TABLE OF ARTICLES**

- 1 THE CONTRACT DOCUMENTS**
- 2 THE WORK OF THIS CONTRACT**
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**
- 4 CONTRACT SUM**
- 5 PAYMENTS**
- 6 DISPUTE RESOLUTION**
- 7 TERMINATION OR SUSPENSION**
- 8 MISCELLANEOUS PROVISIONS**
- 9 ENUMERATION OF CONTRACT DOCUMENTS**

**EXHIBIT A INSURANCE AND BONDS**

**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

**ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ 3.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

The date of this Agreement.

A date set forth in a notice to proceed issued by the Owner.

Established as follows:

*(Insert a date or a means to determine the date of commencement of the Work.)*

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

**§ 3.3 Substantial Completion**

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

Int.

(Check one of the following boxes and complete the necessary information.)

Not later than Two hundred forty-six ( 246 ) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Seventeen Million Nine Hundred and Ninety-Two Thousand Eighty-Four Dollars and Twenty Cents (\$ 17,992,084.20 ), subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
------	-------

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 4.3 Allowances, if any, included in the Contract Sum:  
(Identify each allowance.)

Item	Price
------	-------

§ 4.4 Unit prices, if any:  
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.5 Liquidated damages, if any:  
(Insert terms and conditions for liquidated damages, if any.)

§ 4.6 Other:  
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

Init.

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 10th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the twentieth (20th) day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty ( 20 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

Five percent (5%)

Int.

§ 5.1.7.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage upon Substantial Completion.)*

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

## § 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

0.05 % monthly

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

**§ 6.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

Arbitration pursuant to Section 15.4 of AIA Document A201-2017

Litigation in a court of competent jurisdiction

Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

**ARTICLE 7**

*(Paragraph Deleted)*

**-This paragraph is**

*(Paragraph Deleted)*

**deleted.**

*(Paragraph Deleted)*

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 8.2** The Owner's representative:

*(Name, address, email address, and other information)*

Newport Isles Community Development District  
1901 Ulmerton Road, Suite 475, Clearwater, FL 33762  
Telephone Number: 727-599-4603

**§ 8.3** The Contractor's representative:

*(Name, address, email address, and other information)*

Chris LaFace  
1409 Tech Blvd., Suite 1, Tampa, FL 33619  
Telephone Number: 8136636766  
Fax Number: 813-663-6722

Email Address: claface@ripaconstruction.com

**§ 8.4** Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

Int.

AIA Document A101® - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A101," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 14:22:26 ET on 02/01/2023 under Order No. 2114329509 which expires on 08/13/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail [copyright@aia.org](mailto:copyright@aia.org).

User Notes:

(3B9ADA34)

**§ 8.5 Insurance and Bonds**

**§ 8.5.1** The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

**§ 8.5.2** The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

**§ 8.6** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

**§ 8.7 Other provisions:**

**§8.7.1** The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Engineer and exercise, in good faith, the Contractor's best skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to supply at all times an adequate supply of workers and materials; and to perform the Work in a good and workmanlike manner, in accordance with the Contract Documents (as may be amended from time to time), expeditiously and economically consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents. Notwithstanding the foregoing, Contractor is an independent contractor, and not an employee, agent, or fiduciary of Owner.

**§8.7.2** As a condition precedent to progress payments after the first draw, each Application for Payment shall be accompanied by a partial waiver of lien duly executed and notarized by Contractor and from subcontractors and suppliers who file a Notice to Owner for the portion of Work paid by Owner through the prior month's Application for Payment.

**§8.7.3** As a condition precedent to final payment, Contractor shall deliver to Owner a duly executed and notarized final waiver of lien for the Project. In addition, and also a condition precedent to final payment, Contractor shall deliver to Owner a Final Contractor's Affidavit meeting the requirements of Florida Statute §713.06 similar final waivers of lien duly executed and notarized by all subcontractors and material suppliers in accordance with Florida's Construction Lien Statute. Contractor shall also provide Owner with the final Application for Payment and the Final Contractor's Affidavit required by Florida's Construction Lien Statute.

**§8.7.4** For the purposes of this contract, the term "Architect" is interchangeable with the word "Engineer."

**§8.7.5** The following items are excluded from the contract price:

- Construction staking by others;
- Materials testing by others;
- Bonding is not include;
- Permit / Inspection fees by other;
- Assumes discing shall be accepted by Geotechnical Engineer;
- Contract is based on existing topo noted on the drawings being accurate within 0.2 feet at any given location;
- Contract is based on a Geotechnical Report provided by Faulkner Engineering Services, dated 11/24/2020;
- Contract is based on all onsite cut material, including material from pipe trenches, being usable for structural / pavement areas and trench backfill. Removal and replacement of unsuitable material is not included;

Init.

AIA Document A101® – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A101," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 14:22:26 ET on 02/01/2023 under Order No. 2114329509 which expires on 06/13/2023. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail [copyright@aia.org](mailto:copyright@aia.org).

User Notes:

(38BADA34)



- No allowance has been made for testing, handling, treating, removing or disposing of hazardous or contaminated materials, soils, or groundwater. In addition, removal and disposal of buried trash is not included;
- Telephone, power, cable, irrigation, etc. conduit and sleeves by others unless specified;
- Adjustment/Removal of existing utilities which may conflict with the Work has not be included;
- Items not included are: import fill, well abandonment; landscaping / irrigation; root pruning; tree trimming; invasive species removal; mitigation plantings; fence; and perimeter walls;
- Fuel Pricing is based on \$4.00 / Gallon for off-road diesel fuel. Due to the volatility of fuel, petroleum / PVC and concrete products, we are unable to predict tomorrow's market. The Contract does not include any adjustments / surcharge for material price increases;
- Contract is based on Construction Plans dated 05/11/2022;
- Excavation is based on excavation of the ponds to design elevations to a depth of 20 feet. Contractor will evaluate and overexcavate the ponds if the material is suitable to offsetting long hauls. Contractor will topo the lakes / track load counts and credit the quantity of excavation that is reduced for the long hauls based on the distance.

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

**.5 Drawings**

Number	Title	Date
--------	-------	------

**.6 Specifications**

Section	Title	Date	Pages
---------	-------	------	-------

**.7 Addenda, if any:**

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

**.8 Other Exhibits:**

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this Agreement.)*

The Sustainability Plan:

Init.

Title	Date	Pages
-------	------	-------

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

**.9 Other documents, if any, listed below:**

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

Exhibit "A" - Plans List	Exhibit "B" - Schedule of Values	Exhibit "C" -
Certificate of Insurance	Exhibit "D" - Schedule	
Exhibit "E" - First Addendum		

This Agreement entered into as of the day and year first written above.

Newport Isles Community Development District

RIPA & Associates, LLC

By:

By:   
OWNER (Signature)

SUSAN K. COLLINS, BOARD CHAIR  
(Printed name and title)

  
CONTRACTOR (Signature)

Chris LaFace  
, President  
(Printed name and title)

Init.

# **AIA® Document A201® – 2017**

## **General Conditions of the Contract for Construction**

for the following **PROJECT:**  
*(Name and location or address)*

Newport Isles  
Buckeye Road, Palmetto, FL

**THE OWNER:**  
*(Name, legal status and address)*

Newport Isles Community Development District  
1901 Ulmerton Road, Suite 475, Clearwater, FL 33762

**THE ARCHITECT:**  
*(Name, legal status and address)*

Clint Cuffle, WRA  
7978 Cooper Creek Blvd., Suite 102, University Park, FL 34201

### **TABLE OF ARTICLES**

- 1 GENERAL PROVISIONS**
- 2 OWNER**
- 3 CONTRACTOR**
- 4 ARCHITECT**
- 5 SUBCONTRACTORS**
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**
- 7 CHANGES IN THE WORK**
- 8 TIME**
- 9 PAYMENTS AND COMPLETION**
- 10 PROTECTION OF PERSONS AND PROPERTY**
- 11 INSURANCE AND BONDS**
- 12 UNCOVERING AND CORRECTION OF WORK**
- 13 MISCELLANEOUS PROVISIONS**
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT**
- 15 CLAIMS AND DISPUTES**

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, *Guide for Supplementary Conditions*.

Init.

## INDEX

(Topics and numbers in bold are Section headings.)

- Acceptance of Nonconforming Work  
9.6.6, 9.9.3, 12.3
- Acceptance of Work  
9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3
- Access to Work  
3.16, 6.2.1, 12.1
- Accident Prevention  
10
- Acts and Omissions  
3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,  
10.2.8, 13.3.2, 14.1, 15.1.2, 15.2
- Addenda  
1.1.1
- Additional Costs, Claims for  
3.7.4, 3.7.5, 10.3.2, 15.1.5
- Additional Inspections and Testing  
9.4.2, 9.8.3, 12.2.1, 13.4
- Additional Time, Claims for  
3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, 15.1.6
- Administration of the Contract  
3.1.3, 4.2, 9.4, 9.5
- Advertisement or Invitation to Bid  
1.1.1
- Aesthetic Effect  
4.2.13
- Allowances  
3.8
- Applications for Payment  
4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10
- Approvals  
2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9,  
3.12.10.1, 4.2.7, 9.3.2, 13.4.1
- Arbitration  
8.3.1, 15.3.2, 15.4
- ARCHITECT  
4
- Architect, Definition of  
4.1.1
- Architect, Extent of Authority  
2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2,  
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,  
13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1
- Architect, Limitations of Authority and  
Responsibility  
2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2,  
4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4,  
9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2
- Architect's Additional Services and Expenses  
2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4
- Architect's Administration of the Contract  
3.1.3, 3.7.4, 15.2, 9.4.1, 9.5
- Architect's Approvals  
2.5, 3.1.3, 3.5, 3.10.2, 4.2.7  
Architect's Authority to Reject Work  
3.5, 4.2.6, 12.1.2, 12.2.1  
Architect's Copyright  
1.1.7, 1.5  
Architect's Decisions  
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,  
7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,  
13.4.2, 15.2  
Architect's Inspections  
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4  
Architect's Instructions  
3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2  
Architect's Interpretations  
4.2.11, 4.2.12  
Architect's Project Representative  
4.2.10  
Architect's Relationship with Contractor  
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,  
3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,  
3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,  
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2  
Architect's Relationship with Subcontractors  
1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3  
Architect's Representations  
9.4.2, 9.5.1, 9.10.1  
Architect's Site Visits  
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4  
Asbestos  
10.3.1  
Attorneys' Fees  
3.18.1, 9.6.8, 9.10.2, 10.3.3  
Award of Separate Contracts  
6.1.1, 6.1.2  
Award of Subcontracts and Other Contracts for  
Portions of the Work  
5.2  
Basic Definitions  
1.1  
Bidding Requirements  
1.1.1  
Binding Dispute Resolution  
8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,  
15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1  
Bonds, Lien  
7.3.4.4, 9.6.8, 9.10.2, 9.10.3  
Bonds, Performance, and Payment  
7.3.4.4, 9.6.7, 9.10.3, 11.1.2, 11.1.3, 11.5  
Building Information Models Use and Reliance  
1.8  
Building Permit  
3.7.1  
Capitalization  
1.3  
Certificate of Substantial Completion  
9.8.3, 9.8.4, 9.8.5

Int.

AIA Document A201® – 2017. Copyright © 1914, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017 The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A201," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 14:24:17 ET on 02/01/2023 under Order No. 2114329509 which expires on 06/13/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail [copyright@aia.org](mailto:copyright@aia.org).  
User Notes:

(3B8ADA37)

Certificates for Payment  
 4.2.1, 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7,  
 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4  
 Certificates of Inspection, Testing or Approval  
 13.4.4  
 Certificates of Insurance  
 9.10.2  
 Change Orders  
 1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3,  
 7.1.2, 7.1.3, 7.2, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1,  
 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2  
 Change Orders, Definition of  
 7.2.1  
**CHANGES IN THE WORK**  
 2.2.2, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,  
 11.5  
 Claims, Definition of  
 15.1.1  
 Claims, Notice of  
 1.6.2, 15.1.3  
**CLAIMS AND DISPUTES**  
 3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, 15, 15.4  
 Claims and Timely Assertion of Claims  
 15.4.1  
 Claims for Additional Cost  
 3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, 15.1.5  
 Claims for Additional Time  
 3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, 15.1.6  
 Concealed or Unknown Conditions, Claims for  
 3.7.4  
 Claims for Damages  
 3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3,  
 11.3.2, 14.2.4, 15.1.7  
 Claims Subject to Arbitration  
 15.4.1  
 Cleaning Up  
 3.15, 6.3  
 Commencement of the Work, Conditions Relating to  
 2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,  
 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, 15.1.5  
 Commencement of the Work, Definition of  
 8.1.2  
 Communications  
 3.9.1, 4.2.4  
 Completion, Conditions Relating to  
 3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,  
 9.10, 12.2, 14.1.2, 15.1.2  
**COMPLETION, PAYMENTS AND**  
**9**  
 Completion, Substantial  
 3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1,  
 9.10.3, 12.2, 15.1.2  
 Compliance with Laws  
 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2,  
 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3,  
 15.2.8, 15.4.2, 15.4.3  
 Concealed or Unknown Conditions  
 3.7.4, 4.2.8, 8.3.1, 10.3  
 Conditions of the Contract  
 1.1.1, 6.1.1, 6.1.4  
 Consent, Written  
 3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2,  
 15.4.4.2  
 Consolidation or Joinder  
 15.4.4  
**CONSTRUCTION BY OWNER OR BY**  
**SEPARATE CONTRACTORS**  
 1.1.4, 6  
 Construction Change Directive, Definition of  
 7.3.1  
 Construction Change Directives  
 1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3,  
 7.3, 9.3.1.1  
 Construction Schedules, Contractor's  
 3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2  
 Contingent Assignment of Subcontracts  
 5.4, 14.2.2.2  
 Continuing Contract Performance  
 15.1.4  
 Contract, Definition of  
 1.1.2  
**CONTRACT, TERMINATION OR SUSPENSION**  
**OF THE**  
 5.4.1.1, 5.4.2, 11.5, 14  
 Contract Administration  
 3.1.3, 4, 9.4, 9.5  
 Contract Award and Execution, Conditions Relating  
 to  
 3.7.1, 3.10, 5.2, 6.1  
 Contract Documents, Copies Furnished and Use of  
 1.5.2, 2.3.6, 5.3  
 Contract Documents, Definition of  
 1.1.1  
 Contract Sum  
 2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4,  
 9.1, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2,  
 12.3, 14.2.4, 14.3.2, 15.1.4.2, 15.1.5, 15.2.5  
 Contract Sum, Definition of  
 9.1  
 Contract Time  
 1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5,  
 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1,  
 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2,  
 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5  
 Contract Time, Definition of  
 8.1.1  
**CONTRACTOR**  
 3  
**Contractor, Definition of**  
 3.1, 6.1.2  
 Contractor's Construction and Submittal Schedules  
 3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2  
 Contractor's Employees

2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6,  
10.2, 10.3, 11.3, 14.1, 14.2.1.1  
Contractor's Liability Insurance  
11.1  
Contractor's Relationship with Separate Contractors  
and Owner's Forces  
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4  
Contractor's Relationship with Subcontractors  
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2,  
9.6.7, 9.10.2, 11.2, 11.3, 11.4  
Contractor's Relationship with the Architect  
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,  
3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2,  
6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6,  
10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1  
Contractor's Representations  
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2  
Contractor's Responsibility for Those Performing the  
Work  
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8  
Contractor's Review of Contract Documents  
3.2  
Contractor's Right to Stop the Work  
2.2.2, 9.7  
Contractor's Right to Terminate the Contract  
14.1  
Contractor's Submittals  
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2,  
9.8.3, 9.9.1, 9.10.2, 9.10.3  
Contractor's Superintendent  
3.9, 10.2.6  
Contractor's Supervision and Construction  
Procedures  
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4,  
7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4  
Coordination and Correlation  
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1  
Copies Furnished of Drawings and Specifications  
1.5, 2.3.6, 3.11  
Copyrights  
1.5, 3.17  
Correction of Work  
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2, 12.3,  
15.1.3.1, 15.1.3.2, 15.2.1  
Correlation and Intent of the Contract Documents  
1.2  
Cost, Definition of  
7.3.4  
Costs  
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3,  
7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6,  
11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14  
Cutting and Patching  
3.14, 6.2.5  
Damage to Construction of Owner or Separate  
Contractors  
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4  
Damage to the Work  
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4  
Damages, Claims for  
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2,  
11.3, 14.2.4, 15.1.7  
Damages for Delay  
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2  
Date of Commencement of the Work, Definition of  
8.1.2  
Date of Substantial Completion, Definition of  
8.1.3  
Day, Definition of  
8.1.4  
Decisions of the Architect  
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4,  
7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2,  
14.2.2, 14.2.4, 15.1, 15.2  
Decisions to Withhold Certification  
9.4.1, 9.5, 9.7, 14.1.1.3  
Defective or Nonconforming Work, Acceptance,  
Rejection and Correction of  
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3,  
9.10.4, 12.2.1  
Definitions  
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1,  
6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1  
Delays and Extensions of Time  
3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,  
10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5  
Digital Data Use and Transmission  
1.7  
Disputes  
6.3, 7.3.9, 15.1, 15.2  
Documents and Samples at the Site  
3.11  
Drawings, Definition of  
1.1.5  
Drawings and Specifications, Use and Ownership of  
3.11  
Effective Date of Insurance  
8.2.2  
Emergencies  
10.4, 14.1.1.2, 15.1.5  
Employees, Contractor's  
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,  
10.3.3, 11.3, 14.1, 14.2.1.1  
Equipment, Labor, or Materials  
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,  
4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3,  
9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2  
Execution and Progress of the Work  
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1,  
3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1,  
9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4  
Extensions of Time  
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,  
10.4, 14.3, 15.1.6, 15.2.5

Failure of Payment  
 9.5.1.3, 9.7, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2  
 Faulty Work  
 (See Defective or Nonconforming Work)  
 Final Completion and Final Payment  
 4.2.1, 4.2.9, 9.8.2, 9.10, 12.3, 14.2.4, 14.4.3  
 Financial Arrangements, Owner's  
 2.2.1, 13.2.2, 14.1.1.4  
**GENERAL PROVISIONS**  
 1  
 Governing Law  
 13.1  
 Guarantees (See Warranty)  
 Hazardous Materials and Substances  
 10.2.4, 10.3  
 Identification of Subcontractors and Suppliers  
 5.2.1  
 Indemnification  
 3.17, 3.18, 9.6.8, 9.10.2, 10.3.3, 11.3  
 Information and Services Required of the Owner  
 2.1.2, 2.2, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,  
 9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,  
 14.1.1.4, 14.1.4, 15.1.4  
 Initial Decision  
 15.2  
 Initial Decision Maker, Definition of  
 1.1.8  
 Initial Decision Maker, Decisions  
 14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5  
 Initial Decision Maker, Extent of Authority  
 14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5  
 Injury or Damage to Person or Property  
 10.2.8, 10.4  
 Inspections  
 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,  
 9.9.2, 9.10.1, 12.2.1, 13.4  
 Instructions to Bidders  
 1.1.1  
 Instructions to the Contractor  
 3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2  
 Instruments of Service, Definition of  
 1.1.7  
 Insurance  
 6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5,  
 11  
**Insurance, Notice of Cancellation or Expiration**  
**11.1.4, 11.2.3**  
 Insurance, Contractor's Liability  
 11.1  
 Insurance, Effective Date of  
 8.2.2, 14.4.2  
 Insurance, Owner's Liability  
 11.2  
 Insurance, Property  
 10.2.5, 11.2, 11.4, 11.5  
 Insurance, Stored Materials  
 9.3.2

**INSURANCE AND BONDS**  
 11  
 Insurance Companies, Consent to Partial Occupancy  
 9.9.1  
 Insured loss, Adjustment and Settlement of  
 11.5  
 Intent of the Contract Documents  
 1.2.1, 4.2.7, 4.2.12, 4.2.13  
 Interest  
 13.5  
 Interpretation  
 1.1.8, 1.2.3, 1.4, 4.1.1, 5.1, 6.1.2, 15.1.1  
 Interpretations, Written  
 4.2.11, 4.2.12  
 Judgment on Final Award  
 15.4.2  
 Labor and Materials, Equipment  
 1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,  
 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,  
 10.2.4, 14.2.1.1, 14.2.1.2  
 Labor Disputes  
 8.3.1  
 Laws and Regulations  
 1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,  
 9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,  
 15.4  
 Liens  
 2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8  
 Limitations, Statutes of  
 12.2.5, 15.1.2, 15.4.1.1  
 Limitations of Liability  
 3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,  
 4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,  
 11.3, 12.2.5, 13.3.1  
 Limitations of Time  
 2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,  
 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,  
 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,  
 15.1.2, 15.1.3, 15.1.5  
 Materials, Hazardous  
 10.2.4, 10.3  
 Materials, Labor, Equipment and  
 1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,  
 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,  
 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2  
 Means, Methods, Techniques, Sequences and  
 Procedures of Construction  
 3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2  
 Mechanic's Lien  
 2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8  
 Mediation  
 8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, 15.3, 15.4.1,  
 15.4.1.1  
 Minor Changes in the Work  
 1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, 7.4  
**MISCELLANEOUS PROVISIONS**  
 13

Modifications, Definition of  
 1.1.1  
 Modifications to the Contract  
 1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,  
 10.3.2  
 Mutual Responsibility  
 6.2  
 Nonconforming Work, Acceptance of  
 9.6.6, 9.9.3, 12.3  
 Nonconforming Work, Rejection and Correction of  
 2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,  
 12.2  
 Notice  
 1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4,  
 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4,  
 8.2.2, 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1,  
 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5,  
 15.1.6, 15.4.1  
 Notice of Cancellation or Expiration of Insurance  
 11.1.4, 11.2.3  
 Notice of Claims  
 1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, 15.1.3, 15.1.5,  
 15.1.6, 15.2.8, 15.3.2, 15.4.1  
 Notice of Testing and Inspections  
 13.4.1, 13.4.2  
 Observations, Contractor's  
 3.2, 3.7.4  
 Occupancy  
 2.3.1, 9.6.6, 9.8  
 Orders, Written  
 1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2,  
 14.3.1  
 OWNER  
 2  
 Owner, Definition of  
 2.1.1  
 Owner, Evidence of Financial Arrangements  
 2.2, 13.2.2, 14.1.1.4  
 Owner, Information and Services Required of the  
 2.1.2, 2.2, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5,  
 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1,  
 13.4.2, 14.1.1.4, 14.1.4, 15.1.4  
 Owner's Authority  
 1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2,  
 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,  
 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2,  
 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4,  
 15.2.7  
 Owner's Insurance  
 11.2  
 Owner's Relationship with Subcontractors  
 1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2  
 Owner's Right to Carry Out the Work  
 2.5, 14.2.2  
 Owner's Right to Clean Up  
 6.3  
 Owner's Right to Perform Construction and to Award

Separate Contracts  
 6.1  
 Owner's Right to Stop the Work  
 2.4  
 Owner's Right to Suspend the Work  
 14.3  
 Owner's Right to Terminate the Contract  
 14.2, 14.4  
 Ownership and Use of Drawings, Specifications and  
 Other Instruments of Service  
 1.1.1, 1.1.6, 1.1.7, 1.5, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12,  
 5.3  
 Partial Occupancy or Use  
 9.6.6, 9.9  
 Patching, Cutting and  
 3.14, 6.2.5  
 Patents  
 3.17  
 Payment, Applications for  
 4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1,  
 14.2.3, 14.2.4, 14.4.3  
 Payment, Certificates for  
 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1,  
 9.10.3, 14.1.1.3, 14.2.4  
 Payment, Failure of  
 9.5.1.3, 9.7, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2  
 Payment, Final  
 4.2.1, 4.2.9, 9.10, 12.3, 14.2.4, 14.4.3  
 Payment Bond, Performance Bond and  
 7.3.4.4, 9.6.7, 9.10.3, 11.1.2  
 Payments, Progress  
 9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4  
 PAYMENTS AND COMPLETION  
 9  
 Payments to Subcontractors  
 5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2  
 PCB  
 10.3.1  
 Performance Bond and Payment Bond  
 7.3.4.4, 9.6.7, 9.10.3, 11.1.2  
 Permits, Fees, Notices and Compliance with Laws  
 2.3.1, 3.7, 3.13, 7.3.4.4, 10.2.2  
 PERSONS AND PROPERTY, PROTECTION OF  
 10  
 Polychlorinated Biphenyl  
 10.3.1  
 Product Data, Definition of  
 3.12.2  
 Product Data and Samples, Shop Drawings  
 3.11, 3.12, 4.2.7  
 Progress and Completion  
 4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.4  
 Progress Payments  
 9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4  
 Project, Definition of  
 1.1.4  
 Project Representatives



4.2.10  
 Property Insurance  
 10.2.5, 11.2  
 Proposal Requirements  
 1.1.1  
**PROTECTION OF PERSONS AND PROPERTY**  
 10  
 Regulations and Laws  
 1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1,  
 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8,  
 15.4  
 Rejection of Work  
 4.2.6, 12.2.1  
 Releases and Waivers of Liens  
 9.3.1, 9.10.2  
 Representations  
 3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1  
 Representatives  
 2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1  
 Responsibility for Those Performing the Work  
 3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10  
 Retainage  
 9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3  
 Review of Contract Documents and Field Conditions  
 by Contractor  
 3.2, 3.12.7, 6.1.3  
 Review of Contractor's Submittals by Owner and  
 Architect  
 3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2  
 Review of Shop Drawings, Product Data and  
 Samples by Contractor  
 3.12  
 Rights and Remedies  
 1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,  
 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2,  
 12.2.4, 13.3, 14, 15.4  
 Royalties, Patents and Copyrights  
 3.17  
 Rules and Notices for Arbitration  
 15.4.1  
 Safety of Persons and Property  
 10.2, 10.4  
 Safety Precautions and Programs  
 3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4  
 Samples, Definition of  
 3.12.3  
 Samples, Shop Drawings, Product Data and  
 3.11, 3.12, 4.2.7  
 Samples at the Site, Documents and  
 3.11  
 Schedule of Values  
 9.2, 9.3.1  
 Schedules, Construction  
 3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2  
 Separate Contracts and Contractors  
 1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2  
 Separate Contractors, Definition of

6.1.1  
 Shop Drawings, Definition of  
 3.12.1  
 Shop Drawings, Product Data and Samples  
 3.11, 3.12, 4.2.7  
 Site, Use of  
 3.13, 6.1.1, 6.2.1  
 Site Inspections  
 3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4  
 Site Visits, Architect's  
 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4  
 Special Inspections and Testing  
 4.2.6, 12.2.1, 13.4  
 Specifications, Definition of  
 1.1.6  
 Specifications  
 1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14  
 Statute of Limitations  
 15.1.2, 15.4.1.1  
 Stopping the Work  
 2.2.2, 2.4, 9.7, 10.3, 14.1  
 Stored Materials  
 6.2.1, 9.3.2, 10.2.1.2, 10.2.4  
 Subcontractor, Definition of  
 5.1.1  
**SUBCONTRACTORS**  
 5  
 Subcontractors, Work by  
 1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4,  
 9.3.1.2, 9.6.7  
 Subcontractual Relations  
 5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1  
 Submittals  
 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3,  
 9.8, 9.9.1, 9.10.2, 9.10.3  
 Submittal Schedule  
 3.10.2, 3.12.5, 4.2.7  
 Subrogation, Waivers of  
 6.1.1, 11.3  
 Substances, Hazardous  
 10.3  
 Substantial Completion  
 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3,  
 12.2, 15.1.2  
 Substantial Completion, Definition of  
 9.8.1  
 Substitution of Subcontractors  
 5.2.3, 5.2.4  
 Substitution of Architect  
 2.3.3  
 Substitutions of Materials  
 3.4.2, 3.5, 7.3.8  
 Sub-subcontractor, Definition of  
 5.1.2  
 Subsurface Conditions  
 3.7.4  
 Successors and Assigns

13.2  
 Superintendent  
 3.9, 10.2.6  
 Supervision and Construction Procedures  
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4,  
 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4  
 Suppliers  
 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6,  
 9.10.5, 14.2.1  
 Surety  
 5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2,  
 15.2.7  
 Surety, Consent of  
 9.8.5, 9.10.2, 9.10.3  
 Surveys  
 1.1.7, 2.3.4  
 Suspension by the Owner for Convenience  
 14.3  
 Suspension of the Work  
 3.7.5, 5.4.2, 14.3  
 Suspension or Termination of the Contract  
 5.4.1.1, 14  
 Taxes  
 3.6, 3.8.2.1, 7.3.4.4  
 Termination by the Contractor  
 14.1, 15.1.7  
 Termination by the Owner for Cause  
 5.4.1.1, 14.2, 15.1.7  
 Termination by the Owner for Convenience  
 14.4  
 Termination of the Architect  
 2.3.3  
 Termination of the Contractor Employment  
 14.2.2

**TERMINATION OR SUSPENSION OF THE CONTRACT**  
 14  
 Tests and Inspections  
 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,  
 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4  
**TIME**  
 8  
 Time, Delays and Extensions of  
 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,  
 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5  
 Time Limits  
 2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,  
 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,  
 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14,  
 15.1.2, 15.1.3, 15.4  
 Time Limits on Claims  
 3.7.4, 10.2.8, 15.1.2, 15.1.3  
 Title to Work  
 9.3.2, 9.3.3  
**UNCOVERING AND CORRECTION OF WORK**  
 12  
 Uncovering of Work  
 12.1  
 Unforeseen Conditions, Concealed or Unknown  
 3.7.4, 8.3.1, 10.3  
 Unit Prices  
 7.3.3.2, 9.1.2  
 Use of Documents  
 1.1.1, 1.5, 2.3.6, 3.12.6, 5.3  
 Use of Site  
 3.13, 6.1.1, 6.2.1  
 Values, Schedule of  
 9.2, 9.3.1  
 Waiver of Claims by the Architect  
 13.3.2  
 Waiver of Claims by the Contractor  
 9.10.5, 13.3.2, 15.1.7  
 Waiver of Claims by the Owner  
 9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7  
 Waiver of Consequential Damages  
 14.2.4, 15.1.7  
 Waiver of Liens  
 9.3, 9.10.2, 9.10.4  
 Waivers of Subrogation  
 6.1.1, 11.3  
 Warranty  
 3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2,  
 15.1.2  
 Weather Delays  
 8.3, 15.1.6.2  
 Work, Definition of  
 1.1.3  
 Written Consent  
 1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,  
 13.2, 13.3.2, 15.4.4.2  
 Written Interpretations  
 4.2.11, 4.2.12  
 Written Orders  
 1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

#### **§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### **§ 1.1.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### **§ 1.1.3 The Work**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### **§ 1.1.4 The Project**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### **§ 1.1.5 The Drawings**

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### **§ 1.1.6 The Specifications**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### **§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### **§ 1.1.8 Initial Decision Maker**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### **§ 1.2 Correlation and Intent of the Contract Documents**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### **§ 1.3 Capitalization**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### **§ 1.4 Interpretation**

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service**

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### **§ 1.6 Notice**

**§ 1.6.1** Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

**§ 1.6.2** Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### **§ 1.7 Digital Data Use and Transmission**

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

### **§ 1.8 Building Information Models Use and Reliance**

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### **§ 2.2 Evidence of the Owner's Financial Arrangements**

**§ 2.2.1** Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

**§ 2.2.2** Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

**§ 2.2.3** After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.4** Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### **§ 2.3 Information and Services Required of the Owner**

**§ 2.3.1** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

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

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

**§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

**§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

**§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### § 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### § 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.



§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

### § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

**§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 3.12 Shop Drawings, Product Data and Samples**

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

### **§ 3.13 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### **§ 3.17 Royalties, Patents and Copyrights**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

**§ 4.1.1** The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

**§ 4.1.2** Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### **§ 4.2 Administration of the Contract**

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

init.

Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### **§ 4.2.4 Communications**

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

**§ 4.2.5** Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**§ 4.2.6** The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

**§ 4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

**§ 4.2.11** The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### § 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect or Engineer proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

### § 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into

similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### **§ 5.4 Contingent Assignment of Subcontracts**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

**§ 5.4.2** Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

**§ 5.4.3** Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### **§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 6.1.1** The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

**§ 6.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

**§ 6.1.3** The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

**§ 6.1.4** Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

#### **§ 6.2 Mutual Responsibility**

**§ 6.2.1** The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

**§ 6.2.3** The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

**§ 6.2.4** The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

**§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

#### **§ 6.3 Owner's Right to Clean Up**

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

### **ARTICLE 7 CHANGES IN THE WORK**

#### **§ 7.1 General**

**§ 7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

**§ 7.1.3** Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

#### **§ 7.2 Change Orders**

**§ 7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

#### **§ 7.3 Construction Change Directives**

**§ 7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.



**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

**§ 7.3.4** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.5** If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

**§ 7.3.6** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.7** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

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

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### **§ 7.4 Minor Changes in the Work**

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

### **ARTICLE 8 TIME**

#### **§ 8.1 Definitions**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### **§ 8.2 Progress and Completion**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

#### **§ 8.3 Delays and Extensions of Time**

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

### **ARTICLE 9 PAYMENTS AND COMPLETION**

#### **§ 9.1 Contract Sum**

**§ 9.1.1** The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

**§ 9.1.2** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

#### **§ 9.2 Schedule of Values**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to

the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to

payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

**§ 9.5.2** When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

**§ 9.5.3** When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.4** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

#### **§ 9.6 Progress Payments**

**§ 9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

**§ 9.6.2** The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

**§ 9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

**§ 9.6.4** The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

#### § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

#### § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if

any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

#### **§ 9.9 Partial Occupancy or Use**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

#### **§ 9.10 Final Completion and Final Payment**

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to

certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 Safety Precautions and Programs**

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

### **§ 10.2 Safety of Persons and Property**

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

**§ 10.2.3** The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

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

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### **§ 10.2.8 Injury or Damage to Person or Property**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### **§ 10.3 Hazardous Materials and Substances**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

#### **§ 10.4 Emergencies**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.



## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

**§ 11.1.2** The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

**§ 11.1.3** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

### **§ 11.2 Owner's Insurance**

**§ 11.2.1** The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

**§ 11.2.2 Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

**§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### **§ 11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgage clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

#### **§ 12.2 Correction of Work**

##### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

##### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

#### **§ 12.3 Acceptance of Nonconforming Work**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

### **ARTICLE 13 MISCELLANEOUS PROVISIONS**

#### **§ 13.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### **§ 13.2 Successors and Assigns**

**§ 13.2.1** The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### **§ 13.3 Rights and Remedies**

**§ 13.3.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

**§ 13.3.2** No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### **§ 13.4 Tests and Inspections**

**§ 13.4.1** Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

**§ 13.4.2** If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

**§ 13.4.3** If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

**§ 13.4.4** Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

**§ 13.4.5** If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

**§ 13.4.6** Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### **§ 13.5 Interest**

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

**ARTICLE 14**

*(Paragraphs Deleted)*

This paragraph has  
*(Paragraph Deleted)*

been intentionally  
deleted.

*(Paragraphs Deleted)*

**ARTICLE 15 CLAIMS AND DISPUTES**

**§ 15.1 Claims**

**§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

**§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

**§ 15.1.3 Notice of Claims**

**§ 15.1.3.1** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

**§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

**§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

**§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

**§ 15.1.7 Waiver of Claims for Consequential Damages**

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

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 15.2 Initial Decision**

**§ 15.2.1** Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

**§ 15.2.3** In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision

Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### § 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a

written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

**§ 15.4.4 Consolidation or Joinder**

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.





1409 Tech Boulevard Suite 1  
 Tampa, Florida 33619  
 Office: (813) 623-6777  
 Estimating Fax: (813) 663-6721  
 www.ripaconstruction.com

## EXHIBIT "A" - Drawing List

**Project:** Newport Isles North Mass Grading

**Engineer:** WRA Engineering

PAGE #	SHEET DATE	DESCRIPTION	DATE REC'D	REV. #	REV. DATE
G-000	05.11.2022	COVER SHEET	09.20.2022	N/A	N/A
G-001	05.10.2022	GENERAL CONSTRUCTION NOTES	09.20.2022	N/A	N/A
G-002	05.10.2022	FEMA OVERLAY PLAN	09.20.2022	N/A	N/A
G-003	05.11.2022	BORING LOCATION PLAN	09.20.2022	N/A	N/A
G-101	05.10.2022	EXISTING CONDITIONS PLAN	09.20.2022	N/A	N/A
G-102	05.10.2022	EXISTING CONDITIONS PLAN	09.20.2022	N/A	N/A
G-103	05.10.2022	EXISTING CONDITIONS PLAN	09.20.2022	N/A	N/A
G-104	05.10.2022	EXISTING CONDITIONS PLAN	09.20.2022	N/A	N/A
G-105	05.10.2022	EXISTING CONDITIONS PLAN	09.20.2022	N/A	N/A
G-106	05.10.2022	EXISTING CONDITIONS NOTES	09.20.2022	N/A	N/A
ES-001	05.10.2022	STORMWATER POLLUTION PREVENTION PLAN	09.20.2022	N/A	N/A
ES-002	05.10.2022	OVERALL EROSION CONTROL PLAN	09.20.2022	N/A	N/A
ES-003	05.10.2022	EROSION CONTROL DETAILS	09.20.2022	N/A	N/A
C-101	05.11.2022	MASS GRADING PLAN (1)	09.20.2022	N/A	N/A
C-102	05.11.2022	MASS GRADING PLAN (2)	09.20.2022	N/A	N/A
C-103	05.11.2022	MASS GRADING PLAN (3)	09.20.2022	N/A	N/A
C-104	05.11.2022	MASS GRADING PLAN (4)	09.20.2022	N/A	N/A
C-105	05.11.2022	MASS GRADING PLAN (5)	09.20.2022	N/A	N/A
C-106	05.11.2022	MASS GRADING PLAN (6)	09.20.2022	N/A	N/A
C-107	05.11.2022	MASS GRADING PLAN (7)	09.20.2022	N/A	N/A
C-108	05.11.2022	MASS GRADING PLAN (8)	09.20.2022	N/A	N/A
C-109	05.11.2022	MASS GRADING PLAN (9)	09.20.2022	N/A	N/A
C-110	05.11.2022	MASS GRADING PLAN (10)	09.20.2022	N/A	N/A
C-111	05.11.2022	MASS GRADING PLAN (11)	09.20.2022	N/A	N/A
C-112	05.11.2022	MASS GRADING PLAN (12)	09.20.2022	N/A	N/A
C-113	05.11.2022	MASS GRADING PLAN (13)	09.20.2022	N/A	N/A
C-114	05.11.2022	MASS GRADING PLAN (14)	09.20.2022	N/A	N/A



1409 Tech Boulevard Suite 1  
Tampa, Florida 33619  
Office: (813) 623-6777  
Estimating Fax: (813) 663-6721  
www.ripaconstruction.com

### EXHIBIT "A" - Drawing List

**Project:** Newport Isles North Mass Grading

**Engineer:** WRA Engineering

PAGE #	SHEET DATE	DESCRIPTION	DATE REC'D	REV. #	REV. DATE
C-115	05.11.2022	MASS GRADING PLAN (15)	09.20.2022	N/A	N/A
C-116	05.11.2022	MASS GRADING PLAN (16)	09.20.2022	N/A	N/A
C-117	05.11.2022	MASS GRADING PLAN (17)	09.20.2022	N/A	N/A
C-120	05.11.2022	CROSS SECTIONS	09.20.2022	N/A	N/A
C-121	05.11.2022	CROSS SECTIONS	09.20.2022	N/A	N/A
C-122	05.11.2022	CROSS SECTIONS	09.20.2022	N/A	N/A
C-123	05.11.2022	CROSS SECTIONS	09.20.2022	N/A	N/A
C-152	11.01.2017	STANDARD DRAINAGE DETAILS	09.20.2022	N/A	N/A
C-153	05.10.2022	WEIR WALL DETAILS	09.20.2022	N/A	N/A
C-154	05.10.2022	STRUCTURE DETAILS	09.20.2022	N/A	N/A
C-155	05.10.2022	STRUCTURE DETAILS	09.20.2022	N/A	N/A
C-156	05.10.2022	STRUCTURE DETAILS	09.20.2022	N/A	N/A
C-157	05.10.2022	STRUCTURE DETAILS	09.20.2022	N/A	N/A



1409 Tech Boulevard Suite 1  
 Tampa, Florida 33619  
 Office: (813) 623-6777  
 Estimating Fax: (813) 663-6721  
 www.ripaconstruction.com

## EXHIBIT "A" - Drawing List

**Project:** Newport Isles Mass Grading Phase 1

**Engineer:** WRA Engineering

PAGE #	SHEET DATE	DESCRIPTION	DATE REC'D	REV. #	REV. DATE
G-001	3/29/2022	KEY SHEET	12/16/2022	N/A	N/A
G-002	12/2/2021	SIGNATURE SHEET	12/16/2022	N/A	N/A
C-001	3/31/2022	TYPICAL SECTIONS	12/16/2022	N/A	N/A
C-002	3/31/2022	TYPICAL SECTIONS	12/16/2022	N/A	N/A
C-003	3/31/2022	GENERAL NOTES	12/16/2022	N/A	N/A
C-004	3/31/2022	GENERAL NOTES	12/16/2022	N/A	N/A
C-005	2/5/2021	ROADWAY DETAILS	12/16/2022	N/A	N/A
C-006	11/1/2018	ROADWAY DETAILS	12/16/2022	N/A	N/A
C-007	11/1/2018	ROADWAY DETAILS	12/16/2022	N/A	N/A
C-008	2/5/2021	ROADWAY DETAILS	12/16/2022	N/A	N/A
C-009	3/31/2022	GRADING PLAN	12/16/2022	N/A	N/A
C-010	3/31/2022	GRADING PLAN	12/16/2022	N/A	N/A
C-011	3/31/2022	GRADING PLAN	12/16/2022	N/A	N/A
C-012	3/31/2022	ROADWAY PLAN-PROFILE	12/16/2022	N/A	N/A
C-013	3/31/2022	ROADWAY PLAN-PROFILE	12/16/2022	N/A	N/A
C-014	3/31/2022	ROADWAY PLAN-PROFILE	12/16/2022	N/A	N/A
C-015	3/31/2022	ROADWAY PLAN-PROFILE	12/16/2022	N/A	N/A
C-016	3/31/2022	OVERALL SHEET	12/16/2022	N/A	N/A
C-017	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-018	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-019	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-020	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-021	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-022	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-023	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-024	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A
C-025	3/31/2022	CROSS SECTIONS	12/16/2022	N/A	N/A



1409 Tech Boulevard Suite 1  
 Tampa, Florida 33619  
 Office: (813) 623-6777  
 Estimating Fax: (813) 663-6721  
 www.ripaconstruction.com

## EXHIBIT "A" - Drawing List

**Project:** Newport Isles Mass Grading Phase 1

**Engineer:** WRA Engineering

PAGE #	SHEET DATE	DESCRIPTION	DATE REC'D	REV. #	REV. DATE
C-026	3/31/2022	STORMWATER POLLUTION PREVENTION PLAN	12/16/2022	N/A	N/A
C-027	3/31/2022	EROSION CONTROL DETAILS	12/16/2022	N/A	N/A
C-028	3/31/2022	EROSION CONTROL DETAILS	12/16/2022	N/A	N/A
C-029	11/1/2021	TEMPORARY TRAFFIC CONTROL PLAN	12/16/2022	N/A	N/A
C-030	3/31/2022	UTILITY ADJUSTMENTS SHEET	12/16/2022	N/A	N/A
C-031	3/31/2022	UTILITY ADJUSTMENTS SHEET	12/16/2022	N/A	N/A
C-032	3/31/2022	UTILITY ADJUSTMENTS SHEET	12/16/2022	N/A	N/A
C-033	3/31/2022	UTILITY DETAILS	12/16/2022	N/A	N/A
C-034	3/31/2022	UTILITY DETAILS	12/16/2022	N/A	N/A
C-035	3/31/2022	UTILITY DETAILS	12/16/2022	N/A	N/A
C-036	3/31/2022	DRAINAGE DETAILS	12/16/2022	N/A	N/A
C-037	3/31/2022	DRAINAGE DETAILS	12/16/2022	N/A	N/A
C-038	3/31/2022	SIGNING AND PAVEMENT MARKING PLANS	12/16/2022	N/A	N/A
C-039	3/31/2022	SIGNING AND PAVEMENT MARKING PLANS	12/16/2022	N/A	N/A
C-040	3/31/2022	SIGNING AND PAVEMENT MARKING PLANS	12/16/2022	N/A	N/A
C-041	3/31/2022	EXHIBITS	12/16/2022	N/A	N/A
C-042	3/31/2022	EXHIBITS	12/16/2022	N/A	N/A
C-043	3/31/2022	EXHIBITS	12/16/2022	N/A	N/A



1409 Tech Boulevard Suite 1  
Tampa, Florida 33619  
Office: (813) 623-6777  
Estimating Fax: (813) 663-6721  
www.ripaconstruction.com

## EXHIBIT "A" - Drawing List

**Project:** Newport Isles Mass Grading Phase 1

**Engineer:** WRA Engineering

PAGE #	SHEET DATE	DESCRIPTION	DATE REC'D	REV. #	REV. DATE
C-101	11/7/2022	MASS GRADING PLAN (1)	1/13/2023	N/A	N/A
C-102	11/7/2022	MASS GRADING PLAN (2)	1/13/2023	N/A	N/A
C-103	11/7/2022	MASS GRADING PLAN (3)	1/13/2023	N/A	N/A
C-104	11/7/2022	MASS GRADING PLAN (4)	1/13/2023	N/A	N/A
C-105	11/7/2022	MASS GRADING PLAN (5)	1/13/2023	N/A	N/A
C-106	11/7/2022	MASS GRADING PLAN (6)	1/13/2023	N/A	N/A
C-107	11/7/2022	MASS GRADING PLAN (8)	1/13/2023	N/A	N/A
C-108	11/7/2022	MASS GRADING PLAN (8)	1/13/2023	N/A	N/A
C-109	11/7/2022	MASS GRADING PLAN (9)	1/13/2023	N/A	N/A
C-110	11/7/2022	MASS GRADING PLAN (10)	1/13/2023	N/A	N/A
C-112	11/7/2022	MASS GRADING PLAN (12)	1/13/2023	N/A	N/A
C-113	11/7/2022	MASS GRADING PLAN (13)	1/13/2023	N/A	N/A
C-114	11/7/2022	MASS GRADING PLAN (14)	1/13/2023	N/A	N/A
C-115	11/7/2022	MASS GRADING PLAN (15)	1/13/2023	N/A	N/A
C-116	11/7/2022	MASS GRADING PLAN (16)	1/13/2023	N/A	N/A
C-117	11/7/2022	MASS GRADING PLAN (17)	1/13/2023	N/A	N/A





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/1/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Baldwin Krystyn Sherman 4010 W Boy Scout Blvd Suite 200 Tampa FL 33607	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 813-984-3200		FAX (A/C, No): 813-984-3201
	<b>E-MAIL ADDRESS:</b> certificates@bks-partners.com		
<b>INSURED</b> Ripa & Associates, LLC 1409 Tech Blvd. Suite 1 Tampa FL 33619	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> Old Republic Insurance Company		24147
	<b>INSURER B:</b> Great American Insurance Compa		16691
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		

**COVERAGES**      **CERTIFICATE NUMBER:** 1235783956      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATION MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	MWZY31164523	2/1/2023	2/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			MWTB31164623	2/1/2023	2/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP \$ 10,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			TUU489378600	2/1/2023	2/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	MWC31164423	2/1/2023	2/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 CC Manatee Land Investments LLC, the property owner are included as Additional Insured with respect to General Liability if required by written contract and subject to terms, conditions and exclusions of the policy. A Waiver of Subrogation in favor of CC Manatee Land Investments LLC, the property owner applies to General Liability and Workers Compensation if required by written contract, and subject to terms, conditions, and exclusions of the policy.

**CERTIFICATE HOLDER****CANCELLATION**

CC Manatee Land Investments LLC  
 1901 Ulmerton Road Suite 475  
 Clearwater FL 33762

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
All persons or organizations when required by written contract or agreement	All completed operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
All persons or organizations when required by written contract or agreement	All locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) –  
AUTOMATIC**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
ELECTRONIC DATA LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES  
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – **Conditions**:

We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY –  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance Condition** and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED CONSTRUCTION PROJECT(S)  
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Designated Construction Project(s):**

The project(s) as specified in the written contracts or agreements

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
  - 1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  - 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  - 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
  - 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

**POLICY NUMBER: MWC 311644 23**

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**REQUESTED PER CONTRACT SPECIFICATIONS TO THE EXTENT  
ALLOWABLE BY LAW**

**DATE OF ISSUE: 02-01-23**

**WC 00 03 13**

**(Ed. 4-84)**

**© 1983 National Council on Compensation Insurance.**

*Exhibit "B"*

# RIPA

## & ASSOCIATES

CIVIL | UTILITY CONSTRUCTORS

<b>To:</b> Newport Isles CDD	<b>Contact:</b> David Berner <i>1. SUSAN COLLINS</i>
<b>Address:</b> Tampa, FL	<b>Phone:</b> 813-875-5263 <i>7275994003</i>
<b>Project Name:</b> New Port Isles Mass Grading Phase 1	<b>Bid Number:</b> 22-243
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 1/16/2023

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
<b>GENERAL CONDITIONS</b>					
001	MOBILIZATION	1.00	LS	\$188,000.00	\$188,000.00
002	NPDES COMPLIANCE	1.00	LS	\$51,300.00	\$51,300.00
003	MAINTENANCE OF TRAFFIC	1.00	LS	\$6,700.00	\$6,700.00
004	CONST. STAKEOUT / RECORD SURVEY - BY OTHERS	0.00	LS	\$0.00	\$0.00
005	GEOTECHNICAL & MATERIAL TESTING - BY OTHERS	0.00	LS	\$0.00	\$0.00
006	PAYMENT & PERFORMANCE BOND	0.00	LS	\$0.00	\$0.00
007	CONSTRUCTION ENTRANCE	1.00	EACH	\$10,000.00	\$10,000.00
008	SILT FENCE	67,100.00	LF	\$1.65	\$110,715.00
<b>Total Price for above GENERAL CONDITIONS Items:</b>					<b>\$366,715.00</b>
<b>EARTHWORK</b>					
009	CLEARING & GRUBBING	1.00	LS	\$140,000.00	\$140,000.00
010	FENCE REMOVAL / MISC DEMO (PER FRED)	1.00	LS	\$34,700.00	\$34,700.00
011	IRRIGATION PIPE REMOVAL	1.00	LS	\$32,000.00	\$32,000.00
012	STRIP / PREP SITE	1.00	LS	\$276,500.00	\$276,500.00
013	SITE EXCAVATION (ASSUMES CUT TO BALANCE)	1,821,423.00	CY	\$3.60	\$6,557,122.80
014	UNDERCUT / BURY / REPLACE EXCAVATION (HOT AREA)	15,350.00	CY	\$7.65	\$117,427.50
015	SOD POND SLOPES - BAHIA	155,810.00	SY	\$3.00	\$467,430.00
016	SEED & MULCH DISTURBED AREAS	1,723,970.00	SY	\$0.30	\$517,191.00
017	GRADING	1.00	LS	\$53,750.00	\$53,750.00
<b>Total Price for above EARTHWORK Items:</b>					<b>\$8,196,121.30</b>
<b>STORM SEWER</b>					
018	18" CLASS III RCP STORM	640.00	LF	\$71.25	\$45,600.00
019	24" CLASS III RCP STORM	176.00	LF	\$98.85	\$17,397.60
020	36" CLASS III RCP STORM	144.00	LF	\$193.75	\$27,900.00
021	42" CLASS III RCP STORM	1,592.00	LF	\$252.75	\$402,378.00
022	54" CLASS III RCP STORM	264.00	LF	\$406.50	\$107,316.00
023	60" CLASS III RCP STORM	296.00	LF	\$496.50	\$146,964.00
024	66" CLASS III RCP STORM	392.00	LF	\$614.00	\$240,688.00
025	24" HP STORM	440.00	LF	\$75.00	\$33,000.00
026	36" HP STORM	1,420.00	LF	\$126.00	\$178,920.00
027	42" HP STORM	1,660.00	LF	\$155.00	\$257,300.00
028	TYPE P MANHOLE	1.00	EACH	\$4,700.00	\$4,700.00
029	TYPE J MANHOLE	22.00	EACH	\$8,750.00	\$192,500.00
030	CONTROL STRUCTURE TYPE D	5.00	EACH	\$6,250.00	\$31,250.00
031	CONTROL STRUCTURE TYPE E	1.00	EACH	\$7,850.00	\$7,850.00
032	CONTROL STRUCTURE TYPE H	10.00	EACH	\$13,500.00	\$135,000.00
033	WEIR WALL CONTROL STRUCTURE	13.00	EACH	\$57,500.00	\$747,500.00
034	18" RCP FES	2.00	EACH	\$3,550.00	\$7,100.00
035	24" RCP FES	2.00	EACH	\$3,950.00	\$7,900.00





# RIPA

## & ASSOCIATES

CIVIL | UTILITY CONSTRUCTORS

<b>To:</b> Newport Isles CDD	<b>Contact:</b> David Berner
<b>Address:</b> Tampa, FL	<b>Phone:</b> 813-875-5263
	<b>Fax:</b>
<b>Project Name:</b> New Port Isles Mass Grading Phase 1	<b>Bid Number:</b> 22-243
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 1/16/2023

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
036	36" RCP FES	4.00	EACH	\$6,500.00	\$26,000.00
037	42" RCP FES	4.00	EACH	\$7,250.00	\$29,000.00
038	54" RCP FES	1.00	EACH	\$15,000.00	\$15,000.00
039	66" RCP FES	2.00	EACH	\$21,000.00	\$42,000.00
040	RIP RAP AT END SECTION	15.00	EACH	\$980.00	\$14,700.00
041	DEWATERING	1.00	LS	\$111,400.00	\$111,400.00
042	STORM SEWER TESTING	1.00	LS	\$77,700.00	\$77,700.00
043	CONSTRUCT SWALE	9,314.00	LF	\$13.95	\$129,930.30
<b>Total Price for above STORM SEWER Items:</b>					<b>\$3,036,993.90</b>

**ROADWAY GENERAL CONDITIONS**

044	MOBILIZATION	1.00	LS	\$54,750.00	\$54,750.00
045	CONST. STAKEOUT / RECORD SURVEY	0.00	LS	\$0.00	\$0.00
<b>Total Price for above ROADWAY GENERAL CONDITIONS Items:</b>					<b>\$54,750.00</b>

**ROADWAY EARTHWORK**

046	SITE EXCAVATION (ADJACENT POND)	51,440.00	CY	\$3.45	\$177,468.00
047	SOD POND SLOPES - BAHIA	5,130.00	SY	\$3.00	\$15,390.00
<b>Total Price for above ROADWAY EARTHWORK Items:</b>					<b>\$192,858.00</b>

**ROADWAY PAVING**

048	1.5" TYPE FC 12.5 FRICTION COURSE (PG 76-22)	23,125.00	SY	\$21.35	\$493,718.75
049	2" TYPE SP 12.5 ASPHALT	23,125.00	SY	\$22.50	\$520,312.50
050	10" LIMESTONE BASE	23,125.00	SY	\$27.60	\$638,250.00
051	BRICK PAVERS	5,625.00	SF	\$21.10	\$118,687.50
052	12" STABILIZED SUBGRADE (LBR-40)	23,750.00	SY	\$6.15	\$146,062.50
053	TYPE "D" TRENCH CURB	500.00	LF	\$31.00	\$15,500.00
054	TYPE "AB" CURB W/ STABILIZATION	7,515.00	LF	\$30.00	\$225,450.00
055	TYPE "F" CURB W/ STABILIZATION	8,165.00	LF	\$32.00	\$261,280.00
056	TYPE "RA" CURB W/ STABILIZATION	630.00	LF	\$33.00	\$20,790.00
057	4" CONCRETE SIDEWALK	60,795.00	SF	\$8.30	\$504,598.50
058	5' ADA HANDICAPPED RAMP	16.00	EACH	\$1,150.00	\$18,400.00
059	10' ADA HANDICAPPED RAMP	14.00	EACH	\$2,350.00	\$32,900.00
060	SOD 2' BOC / EOP - BAHIA	3,400.00	SY	\$3.00	\$10,200.00
061	FINAL GRADING	1.00	LS	\$77,500.00	\$77,500.00
062	SIGNAGE & STRIPING (ALLOWANCE)	1.00	LS	\$100,000.00	\$100,000.00
<b>Total Price for above ROADWAY PAVING Items:</b>					<b>\$3,183,649.75</b>

**ROADWAY STORM SEWER**

063	18" CLASS III RCP STORM	1,635.00	LF	\$71.25	\$116,493.75
064	24" CLASS III RCP STORM	875.00	LF	\$98.85	\$86,493.75
065	30" CLASS III RCP STORM	865.00	LF	\$148.75	\$128,668.75



# RIPA

& ASSOCIATES

CIVIL | UTILITY CONSTRUCTORS

<b>To:</b> Newport Isles CDD	<b>Contact:</b> David Berner
<b>Address:</b> Tampa, FL	<b>Phone:</b> 813-875-5263
	<b>Fax:</b>
<b>Project Name:</b> New Port Isles Mass Grading Phase 1	<b>Bid Number:</b> 22-243
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 1/16/2023

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
066	36" CLASS III RCP STORM	985.00	LF	\$193.75	\$190,843.75
067	42" CLASS III RCP STORM	160.00	LF	\$252.75	\$40,440.00
068	48" CLASS III RCP STORM	160.00	LF	\$310.00	\$49,600.00
069	MANATEE CO. CURB INLET	37.00	EACH	\$7,800.00	\$288,600.00
070	18" RCP FES	2.00	EACH	\$3,550.00	\$7,100.00
071	36" RCP FES	3.00	EACH	\$6,500.00	\$19,500.00
072	42" RCP FES	1.00	EACH	\$7,275.00	\$7,275.00
073	48" RCP FES	1.00	EACH	\$8,950.00	\$8,950.00
074	RIP RAP AT END SECTION	7.00	EACH	\$980.00	\$6,860.00
075	DEWATERING	1.00	LS	\$66,000.00	\$66,000.00
076	STORM SEWER TESTING	1.00	LS	\$41,500.00	\$41,500.00
<b>Total Price for above ROADWAY STORM SEWER Items:</b>					<b>\$1,058,325.00</b>

**ROADWAY FORCEMAIN**

077	CONNECT TO EXISTING FORCEMAIN	1.00	EACH	\$9,125.00	\$9,125.00
078	16" X 12" TAPPING SLEEVE & VALVE	1.00	EACH	\$15,300.00	\$15,300.00
079	12" PVC FORCEMAIN (DR 18)	3,500.00	LF	\$94.75	\$331,625.00
080	12" DIP FORCEMAIN	200.00	LF	\$148.83	\$29,766.00
081	12" PLUG VALVE ASSEMBLY	4.00	EACH	\$7,400.00	\$29,600.00
082	12" MJ BEND	20.00	EACH	\$1,900.00	\$38,000.00
083	AIR RELEASE ASSEMBLY	1.00	EACH	\$7,500.00	\$7,500.00
084	PRESSURE TESTING	1.00	LS	\$17,000.00	\$17,000.00
<b>Total Price for above ROADWAY FORCEMAIN Items:</b>					<b>\$477,916.00</b>

**ROADWAY WATERMAIN**

085	CONNECT TO EXISTING WATERMAIN	1.00	EACH	\$9,125.00	\$9,125.00
086	TEMPORARY JUMPER	1.00	EACH	\$10,750.00	\$10,750.00
087	30" X 12" TAPPING SLEEVE & VALVE	1.00	EACH	\$20,500.00	\$20,500.00
088	12" PVC WATER MAIN (DR 18)	3,500.00	LF	\$94.40	\$330,400.00
089	12" DIP WATER MAIN	300.00	LF	\$99.50	\$29,850.00
090	12" GATE VALVE ASSEMBLY	3.00	EACH	\$4,700.00	\$14,100.00
091	12" MJ BEND	20.00	EACH	\$1,200.00	\$24,000.00
092	FIRE HYDRANT ASSEMBLY	5.00	EACH	\$7,700.00	\$38,500.00
093	BLOWOFF W/ AUTO FLUSH ASSEMBLY	1.00	EACH	\$10,975.00	\$10,975.00
094	SAMPLE POINT	3.00	EACH	\$625.00	\$1,875.00
095	TEMPORARY BLOWOFF ASSEMBLY	1.00	EACH	\$675.00	\$675.00
096	CHLORINE INJECTION POINT	1.00	EACH	\$675.00	\$675.00
097	CHLORINATION & PRESSURE TESTING	1.00	LS	\$19,000.00	\$19,000.00
<b>Total Price for above ROADWAY WATERMAIN Items:</b>					<b>\$510,425.00</b>

**BUCKEYE ROAD IMPROVEMENTS (ALLOWANCE)**

098	MOBILIZATION / NPDES COMPLIANCE	1.00	LS	\$30,000.00	\$30,000.00
-----	---------------------------------	------	----	-------------	-------------



**RIPA**  
**& ASSOCIATES**  
 CIVIL | UTILITY CONSTRUCTORS

<b>To:</b> Newport Isles CDD	<b>Contact:</b> David Berner
<b>Address:</b> Tampa, FL	<b>Phone:</b> 813-875-5263
	<b>Fax:</b>
<b>Project Name:</b> New Port Isles Mass Grading Phase 1	<b>Bid Number:</b> 22-243
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 1/16/2023

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
099	MAINTENANCE OF TRAFFIC	1.00	LS	\$25,000.00	\$25,000.00
100	EXCAVATE / PREP RIGHT OF WAY	1.00	LS	\$40,000.00	\$40,000.00
101	SOD RIGHT OF WAY - BAHIA	4,500.00	SY	\$3.00	\$13,500.00
102	FINAL GRADING	1.00	LS	\$25,000.00	\$25,000.00
103	MILL EXISTING ASPHALT 1"	3,275.00	SY	\$6.40	\$20,960.00
104	1" TYPE SP 9.5 ASPHALT	3,275.00	SY	\$15.00	\$49,125.00
105	1 1/2" TYPE SP 9.5 ASPHALT	4,785.00	SY	\$18.40	\$88,044.00
106	OPT. BASE GROUP 9	3,525.00	SY	\$100.00	\$352,500.00
107	OPT. BASE GROUP 1	1,260.00	SY	\$38.50	\$48,510.00
108	12" STABILIZED SUBGRADE	4,785.00	SY	\$20.75	\$99,288.75
109	STABILIZED SHOULDER (LBR-40)	1,260.00	SY	\$12.80	\$16,128.00
110	TYPE "F" CURB W/ STABILIZATION	250.00	LF	\$51.00	\$12,750.00
111	4" CONCRETE SIDEWALK	7,230.00	SF	\$8.15	\$58,924.50
112	5' ADA HANDICAPPED RAMP	4.00	EACH	\$1,150.00	\$4,600.00
113	SIGNAGE & STRIPING (ALLOWANCE)	1.00	LS	\$30,000.00	\$30,000.00
<b>Total Price for above BUCKEYE ROAD IMPROVEMENTS (ALLOWANCE) Items:</b>					<b>\$914,330.25</b>

**Total Bid Price: \$17,992,084.20**

**Notes:**

- CONSTRUCTION STAKING & RECORD SURVEY BY OTHERS.
- GEOTECHNICAL/ MATERIALS TESTING IS BY OTHERS.
- PERMIT / INSPECTION FEES BY OTHERS.
- ASSUMES DISCING SHALL BE ACCEPTED BY THE GEOTECHNICAL ENGINEER.
- THIS PROPOSAL IS BASED ON EXISTING TOPO NOTED ON THE DRAWINGS BEING ACCURATE WITHIN 0.2 FEET AT ANY GIVEN LOCATION. TOPO VERIFICATION MAY BE REQUIRED PRIOR TO FINAL CONTRACT.
- THIS PROPOSAL IS BASED ON A GEOTECHNICAL REPORT PROVIDED BY FAULKNER ENGINEERING SERVICES, DATED 11/24/2020.
- THIS PROPOSAL IS BASED ON ALL ONSITE CUT MATERIAL, INCLUDING MATERIAL FROM PIPE TRENCHES, BEING USABLE FOR STRUCTURAL / PAVEMENT AREAS AND TRENCH BACKFILL. REMOVAL AND REPLACEMENT OF UNSUITABLE MATERIAL IS NOT INCLUDED.
- NO ALLOWANCE HAS BEEN MADE FOR TESTING, HANDLING, TREATING, REMOVING OR DISPOSING OF HAZARDOUS OR CONTAMINATED MATERIALS, SOILS, OR GROUNDWATER. IN ADDITION, REMOVAL AND DISPOSAL OF BURIED TRASH IS NOT INCLUDED.
- TELEPHONE, POWER, CABLE, IRRIGATION, ETC. CONDUIT AND SLEEVES BY OTHERS, UNLESS SPECIFIED.
- UNLESS NOTED, WE HAVE NOT INCLUDED ANY ADJUSTMENTS/REMOVAL OR RELOCATION OF EXISTING UTILITIES WHICH MAY CONFLICT WITH PROPOSED WORK.
- ITEMS NOT INCLUDED ARE: IMPORT FILL; WELL ABANDONMENT; LANDSCAPING; IRRIGATION; ROOT PRUNING; TREE TRIMMING; INVASIVE SPECIES REMOVAL; MITIGATION PLANTINGS; FENCE; AND PERIMETER WALLS.
- **FUEL PRICING IS BASED ON \$4.00 / GALLON FOR OFF-ROAD DIESEL FUEL. THIS PROPOSAL IS VALID FOR 30 DAYS.** DUE TO THE VOLATILITY OF FUEL, PETROLEUM / PVC AND CONCRETE PRODUCTS, WE ARE UNABLE TO PREDICT TOMORROW'S MARKET. THIS PROPOSAL DOES NOT INCLUDE ANY ADJUSTMENTS / SURCHARGE FOR MATERIAL PRICE INCREASES.
- THIS PROPOSAL IS BASED ON CONSTRUCTION PLANS PLOT DATED 05/11/2022.



**RIPA**  
**& ASSOCIATES**  
 CIVIL | UTILITY CONSTRUCTORS

<b>To:</b> Newport Isles CDD	<b>Contact:</b> David Berner
<b>Address:</b> Tampa, FL	<b>Phone:</b> 813-875-5263
	<b>Fax:</b>
<b>Project Name:</b> New Port Isles Mass Grading Phase 1	<b>Bid Number:</b> 22-243
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 1/16/2023

- OUR PROPOSAL FOR EXCAVATION IS BASED ON EXCAVATION OF THE PONDS TO DESIGN ELEVATIONS TO A DEPTH OF 20'. RIPA WILL EVALUATE AND OVEREXCAVATE THE PONDS IF THE MATERIAL IS SUITABLE TO OFFSET THE LONG HAULS. WE WILL TOPO THE LAKES / TRACK LOAD COUNTS AND CREDIT THE QUANTITY OF EXCAVATION THAT IS REDUCED FOR THE LONG HAULS BASED ON THE DISTANCE.

**ACCEPTED:**

The above prices, specifications and conditions are satisfactory and are hereby accepted.

**Buyer:** Susan K. Collins SUSAN K. COLLINS

**Signature:** [Signature]

**Date of Acceptance:** 2/2/2023

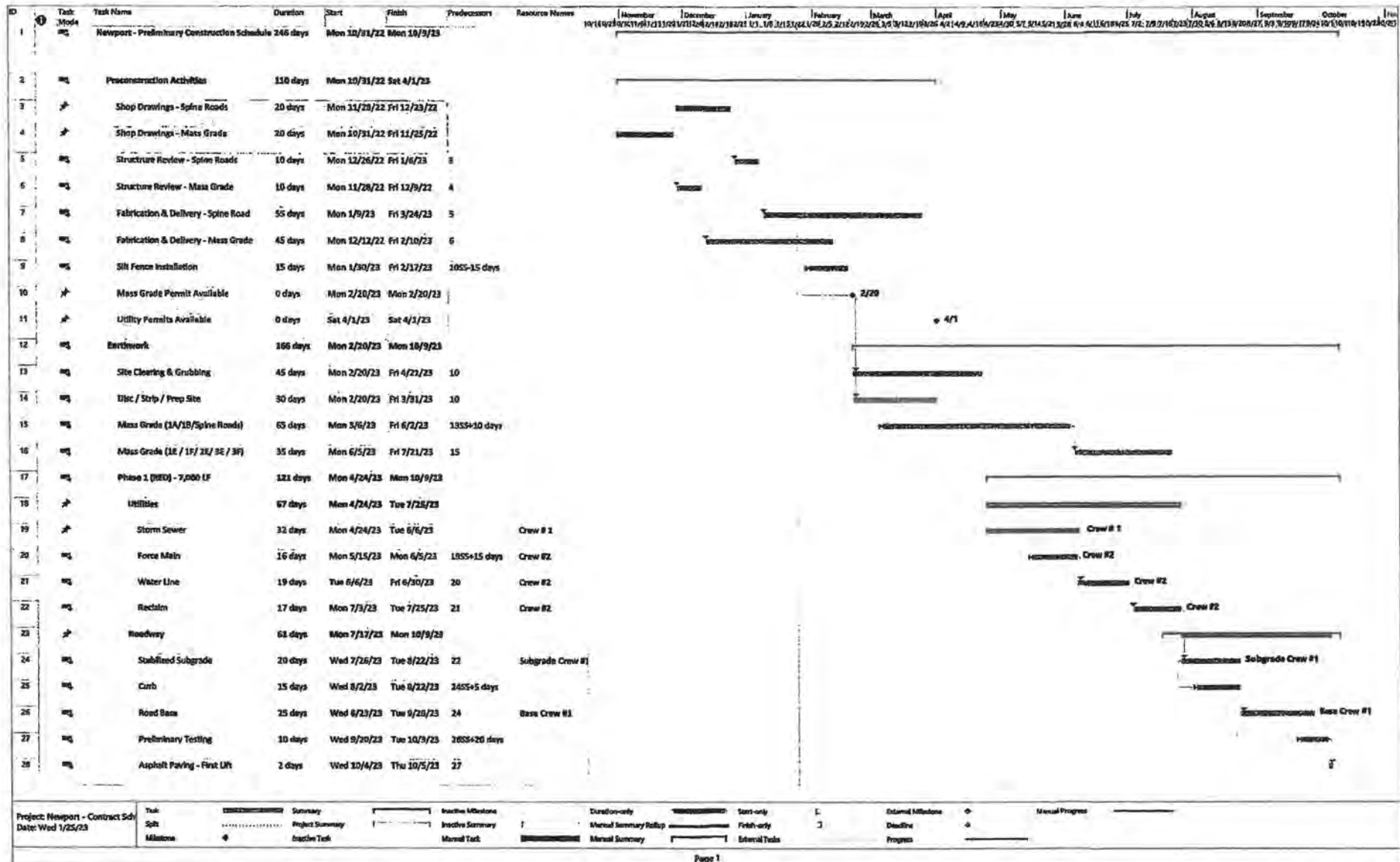
**CONFIRMED:**

**Ripa & Associates**

**Authorized Signature:** [Signature]

**Estimator:** Curtis Mast  
 813-415-7771 cmast@ripaconstruction.com

Exhibit "D"



**FIRST ADDENDUM**  
**TO**  
**AGREEMENT BETWEEN OWNER AND CONTRACTOR**  
**(AIA FORM A101-2017 and AIA FORM A-201-2017)**

The Standard Form of Agreement Between Owner and Contractor (AIA Form A101-2017) (the "Agreement") and the General Conditions for the Contract for Construction (AIA Form A201-2017) (the "General Conditions") executed and entered into by and between **Newport Isles Community Development District** (the "District") and **RIPA & Associates, LLC** (as "Contractor") pertaining to the development project referred to as **Newport Isles, Buckeye Road, Palmetto, Florida-Mass Grading South** (the "Project"), are hereby amended and revised by the terms and provisions stated below.

1. **AMENDMENT.** The Agreement and General Conditions are amended and revised to conform to and be consistent with the terms of this First Addendum. To the extent the terms of the Contract conflict with this Addendum, the terms of this First Addendum shall control.

2. **REFERENCES TO PARTIES.**

(a) **Owner.** As used in the Agreement and the General Conditions, the term "Owner" means the District, and all terms and provisions applicable to Owner shall apply to the District

(b) **Architect.** As used in the Agreement and the General Conditions, the term "Architect" means WRA Engineering, by Clint Cuffle, as agent/representative (the "Engineer") and all terms and provisions applicable to Architect shall apply to the Engineer.

3. **CONTRACT DOCUMENTS.** Article 9, Section 9.1.9 of the Contract is hereby revised to specifically identify the other documents included in the Contract Documents and incorporated into the Contract, as stated below.

**Exhibit A.** The Plans List consists of the construction plans for the Work identified below:

Name of Plans Preparer: WRA ENGINEERING

Date of Plans: See Exhibit "A"

Plans ID #:

**Exhibit B.** The Schedule of Values stating and itemizing the Contract Sum is identified below:

Name of Schedule of Values Preparer: CURTIS MAST, RIPA & ASSOCIATES

Date of Schedule of Values: JANUARY 16, 2023

Schedule of Values ID #:

**Exhibit C.** The Certificate of Insurance is identified below:

Name of Insurer: OLD REPUBLIC INSURANCE COMPANY

Name of Insured Party: RIPA & ASSOCIATES

Certificate ID #: 1661402005, 756098772, 1235783956

**Exhibit D.** The Schedule stating the time periods for the Work to be performed is identified below:

Name of Schedule Preparer: JOHN FLINN, RIPA & ASSOCIATES

Date of Schedule: JANUARY 23, 2023

Schedule ID #:

4. **WORK DESCRIPTION.** The Work to be performed by Contractor under the Agreement, referred to as "Mass Grading South", consists of mass grading and excavation of ponds for Phase 1-A of the Project, as described in the Contract Documents and the proposal submitted by Contractor for such Work, as copy of which is attached to and made a part of the Agreement as **Exhibit E**. Contractor will maintain the performed Work in accordance and compliance with applicable laws and regulations pertaining to erosion control and surface conditions until the land upon which the Work is performed is transferred and conveyed to a third party buyer to be developed for residential use. The terms and provisions for any and all additional Work to be performed by Contractor related to the Project, including but not limited to additional sections of roads and off-site improvements on Buckeye, shall be evidenced by written Change Order to be mutually approved, in writing, by and between Owner and Contractor.

5. **CONTRACT SUM ADJUSTMENT.** The Contract Sum to be paid by Owner to Contractor for the Work, as stated in the Schedule of Values attached as **Exhibit B** to the Agreement, shall be decreased by the amounts described below.

(a) The Contract Sum shall be decreased by the amount by which the actual costs incurred by Contractor for materials used perform the Work (collectively, the "**Actual Materials Cost**") are less than the estimated costs for those materials stated in the Schedule of Values attached to the Agreement as **Exhibit B** (the "**Estimated Materials Costs**"). Within ten (10) days following the end of each month, Contractor shall deliver to Owner a written statement of the Actual Materials Cost incurred by Contractor during that month together with a written statement of the Estimated Materials Costs for the same materials.

(b) The Contract Sum shall be decreased by the amount by which the actual cost incurred by Contractor for diesel fuel consumed to perform the Work (collectively, the "**Actual Fuel Cost**") is less than the estimated cost for diesel fuel stated in the Schedule of Values attached to the Agreement as **Exhibit B** (the "**Estimated Fuel Cost**"). Within ten (10) days following the end of each month, Contractor shall deliver to Owner a written statement of the Actual Fuel Cost incurred by Contractor during that month together with a written statement of the Estimated Fuel Cost for the same amount of consumed gallons.

6. **RETAINAGE.** Section 5.1.7.1 of the Agreement is amended to change the rate to be used to calculate Retainage to five percent (5%), which shall be not subject to reduction as stated in Section 5.1.7.2 of the Agreement.

7. **SECTION 5.18** Section 5.18 of the Agreement is hereby deleted in its entirety

8. **DEFAULT REMEDIES** In the event of a material default by either party in the performance of its duties which shall not be timely cured in accordance with applicable terms of the Agreement, the party not in default shall have all rights and remedies available to it under the laws of Florida, including without limitation the right to terminate the Agreement and to seek an award of compensatory damages (but not consequential damages, punitive damages or lawyer fees), subject to limitations specifically stated in the Contract. The right to such remedies shall be asserted and resolved as Claims under Article 15 of the General Conditions of the Agreement.

9. **PAYMENT AND PERFORMANCE BONDS; NO LIEN RIGHTS.** Before commencing the work, and consistent with the requirements of Section 255.05, Florida Statutes, the Contractor and Cornerstone Land Company, LLC shall execute and deliver to the District a Demand Note Agreement in the amount of the Contract Price and in a form suitable to the District.,

Contractor agrees that the District is a local unit of special purpose government and not an "Owner" as defined in Section 713.01(23), Florida Statutes. Therefore, notwithstanding anything in the Contract to the contrary, there are no lien rights available to any person providing materials or services for improvements in connection with the project. Contractor shall notify any subcontractors, material suppliers or others claiming interest in the work of the existence of the payment and performance bond.

10. **INSURANCE.** Section 11.2 Owner Insurance of the General Conditions of the Contract for Construction is hereby stricken from the Contract. Further, Section 11.3 Waivers of Subrogation of the General Conditions of the Contract for Construction is hereby stricken from the Contract. [DELETE 11.5 as well?]

11. **LOCAL GOVERNMENT PROMPT PAYMENT ACT.** Notwithstanding any other provision of the Contract, all payments to the Contractor shall be made in a manner consistent with the Local Government Prompt Payment Act, Sections 218.70 through 218.80, *Florida Statutes*. Contractor shall make payments due to subcontractors and materialmen and laborers within ten (10) days in accordance with the prompt payment provisions contained in Section 218.735(6), 218.735(7), and 218.74, Florida Statutes. All payments due and not made within the time prescribed by Section 218.735, Florida Statutes, bear interest at the rate of one percent (1%) per month on the unpaid balance in accordance with Section 218.735(9), *Florida Statutes*.

12. **RETAINAGE.** The following provision addresses the holding of retainage under the Contract:

Pursuant to Section 255.078, Florida Statutes, the Owner may withhold from each progress payment made to the Contractor an amount not exceeding five percent of the payment. Five percent of the contract price will be retained until final completion, acceptance of the Work, and final payment to the Contractor.

13. **INDEMNIFICATION.** To the extent that a maximum limit for indemnification is required by law, and not otherwise set forth in the Contract, the indemnification limit shall be the greater of the limits of the insurance amounts set forth in the Contract or Five Million Dollars (\$5,000,000), which amounts Contractor agrees are reasonable and enforceable, and were included as part of the bid and/or assignment documents. The Contractor's obligations hereunder are intended to be consistent with all provisions of applicable law, and to the extent found inconsistent by a court of competent jurisdiction, the Contract shall be deemed amended and/or reformed consistent with the intent of this paragraph and the Contract, and such that the obligations apply to the maximum extent permitted by law.



14. **TAX EXEMPT DIRECT PURCHASES.** The parties agree that the District may in its sole discretion elect to undertake a direct purchase of any or all materials incorporated into the work performed according to the Contract. In such event, the following conditions shall apply:

- a. The District represents to Contractor that the District is a governmental entity exempt from Florida sales and use tax, and has provided Contractor with a copy of its Consumer
- b. The District may elect to implement a direct purchase arrangement whereby the District will directly acquire certain materials ("**Direct Purchase Materials**") necessary for the work directly from the suppliers to take advantage of District's tax exempt status.
- c. Prior to purchasing any materials, the Contractor shall contact the District to determine which materials will be treated as Direct Purchase Materials.
- d. The District shall issue a Certificate of Entitlement to each supplier of Direct Purchase Materials, and to the Contractor. Each Certificate of Entitlement will be in the format specified by Rule 12A-1.094(4)(c), Florida Administrative Code. Each Certificate of Entitlement shall have attached thereto the corresponding purchase order. Each Certificate of Entitlement shall affirm that (1) the attached purchase order is being issued directly to the vendor supplying the tangible personal property the Contractor will use in the identified public works; (2) the vendor's invoice will be issued directly to the District; (3) payment of the vendor's invoice will be made directly by the District to the vendor from public funds; (4) the District will take title to the tangible personal property from the vendor at the time of purchase or of delivery by the vendor; and (5) the District assumes the risk of damage or loss at the time of purchase or delivery by the vendor. Each Certificate of Entitlement shall acknowledge that if the Department of Revenue determines the purchase is not a tax exempt purchase by a governmental entity, then the governmental entity will be responsible for any tax, penalties and interest determined to be due.
- e. The District shall issue purchase orders directly to suppliers of Direct Purchase Materials. The District shall issue a separate Certificate of Entitlement for each purchase order. Such purchase orders shall require that the supplier provide the required shipping and handling insurance and provide for delivery F.O.B. jobsite. Corresponding change orders shall be executed at the time of the direct purchase to reflect the direct purchases made by the District and if the original contract contemplated sale of materials and installation by same person, the change order shall reflect sale of materials and installation by different legal entities.
- f. Upon delivery of the Direct Purchase Materials to the jobsite, the District shall inspect the materials and invoices to determine that they conform to the purchase order. If the materials conform, the District shall accept and take title to the Direct Purchase Materials.
- g. Suppliers shall issue invoices directly to the District. The District shall process invoices and issue payment directly to the suppliers from public funds.
- h. Upon acceptance of Direct Purchase Materials, the District shall assume risk of loss of same until they are incorporated into the project. Contractor shall be responsible for safeguarding all Direct Purchase Materials and for obtaining and managing all warranties and guarantees for all material and products.
- i. The District shall, at its option, maintain builder's risk insurance on the Direct Purchase Materials.

15. **PUBLIC RECORDS.** The Contractor agrees and understands that Chapter 119, Florida Statutes, may be applicable to documents prepared in connection with the services provided hereunder and agrees to cooperate with public record requests made thereunder. In connection with this Contract, Contractor agrees to comply with all provisions of Florida's public records laws, including but not limited to Section 119.0701, *Florida Statutes*, the terms of which are incorporated herein. Among other requirements, Contractor must:

- a. Keep and maintain public records required by the District to perform the service.
- b. Upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement if the Contractor does not transfer the records to the District.
- d. Upon completion of this Agreement, transfer, at no cost, to the District all public records in possession of the Contractor or keep and maintain public records required by the District to perform the service. If the Contractor transfers all public records to the District upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE PUBLIC RECORDS CUSTODIAN AT C/O CRAIG WRATHELL, WRATHELL, HUNT AND ASSOCIATES, LLC, 2300 GLADES ROAD, SUITE 410W, BOCA RATON, FLORIDA 33431 PHONE (561) 571-0010, AND E-MAIL WRATHELLC@WHHASSOCIATES.COM.**

16. **SOVEREIGN IMMUNITY.** Nothing in the Contract shall be deemed as a waiver of the District's sovereign immunity or the District's limits of liability as set forth in Section 768.28, *Florida Statutes* or other statute, and nothing in the Contract shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under such limitations of liability or by operation of law.

17. **TERMINATION.** The District shall have the right to terminate this Agreement immediately upon written notice for cause, or upon seven (7) days' written notice without cause. Contractor shall have the right to terminate this Agreement for cause upon sixty (60) days' written notice to the District, provided however that the District shall be given a reasonable opportunity to cure any default. In the event either party terminates this Agreement, Contractor's sole remedy shall be to recover the balance of money due and owing to it at the effective date of termination for the work actually performed up to that date, subject to any off-sets the District might have against Contractor.

18. **NOTICES.** Notices provided to the Owner/District pursuant to the Contract shall be provided to the following individuals:

District: Newport Isles Community Development District  
2300 Glades Road, Suite 410W  
Boca Raton, Florida 33431  
Attn: District Manager  
EMAIL: SUSAN@CORNERSTONELANDCOMPANY.COM

With a copy to: KE Law Group, PLLC  
2016 Delta Boulevard, Suite 101  
Tallahassee, Florida 32303  
Attn: District Counsel

With a copy to: CC Manatee Land Investments, LLC  
  
Tom Chapman, Manager  
1901 Ulmerton Road, Suite 475  
Clearwater, FL 33762  
Phone: 727-772-3453  
Fax: 727-216-2168  
Email: tom@CornerstoneLandCompany.com

18. **SCRUTINIZED COMPANIES STATEMENT.** Upon the Assignment, Contractor shall properly execute a sworn statement pursuant to Section 287.135(5), *Florida Statutes*, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit A**. If the Contractor is found to have submitted a false certification as provided in Section 287.135(5), *Florida Statutes*, or has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in the boycott of Israel, or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, the District may immediately terminate the Contract.

19. **PUBLIC ENTITY CRIMES STATEMENT.** Upon the Assignment, Contractor shall properly execute a sworn statement under Section 287.133(3)(a), *Florida Statutes*, regarding public entity crimes, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statement shall be substantially in the form of the attached **Exhibit B**.

20. **TRENCH SAFETY ACT STATEMENTS.** Upon the Assignment, Contractor shall properly execute a Trench Safety Act Compliance Statement and a Trench Safety Act Compliance Cost Statement, and by signing this Addendum represents that Contractor is able to execute such sworn statement. The statements shall be substantially in the form of the attached **Exhibit C**.

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

22. **E-VERIFY.** The Contractor shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, to the extent required by Florida Statute, Contractor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees. The District may terminate this Agreement

immediately for cause if there is a good faith belief that the Contractor has knowingly violated Section 448.091, *Florida Statutes*. By entering into this Agreement, the Contractor represents that no public employer has terminated a contract with the Contractor under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

23. **EXHIBITS.** The Exhibits identified below are attached to and made a part of this First Addendum

**Exhibit A:** Scrutinized Companies Statement

**Exhibit B:** Public Entity Crimes Statement

**Exhibit C:** Trench Safety Act Statement

24. **LAWYER FEES.** Owner and Contractor shall each pay its own lawyer fees in matters or proceedings based upon, pertaining to or arising under the Contract, including any mediation, arbitration or litigation. Owner and Contractor each hereby waive any and all rights to claim and recover lawyer fees from the other party based upon the Contract or any applicable law.

25. **JURY TRIAL WAIVER.** THE PARTIES, TO THE FULL EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVE, RELINQUISH AND FOREVER FORGO THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS CONTRACT, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

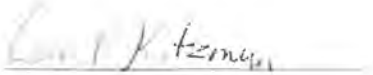
(Signatures on Next Page)

IN WITNESS WHEREOF, the parties hereto hereby acknowledge and agree to this Addendum.

**RIPA & ASSOCIATES, LLC**



Witness



Print Name of Witness



By: Chris LaFace

Its: President


**NEWPORT ISLES COMMUNITY  
DEVELOPMENT DISTRICT**



Witness



Print Name of Witness



By: SUSAN K. COLLINS

Its: Chairperson

**EXHIBIT A**

**SCRUTINIZED COMPANIES STATEMENT**

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

1. This sworn statement is submitted to Newport Isles Community Development District

by Chris LaFace, President

(print individual's name and title)

for Ripa & Associates, LLC

(print name of entity submitting sworn statement)

whose business address is

1409 Tech Blvd., Suite 1, Tampa, FL 33619

2. I understand that, subject to limited exemptions, Section 287.135, *Florida Statutes*, provides that a company that at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract is on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, the Scrutinize Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Cuba or Syria (together, "Prohibited Criteria"), is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of \$1 million or more.
3. Based on information and belief, at the time the entity submitting this sworn statement submits its proposal to the District, neither the entity, nor any of its officers, directors, executives, partners, shareholders, members, or agents meets any of the Prohibited Criteria. If awarded the contract, the Proposer will immediately notify the District in writing if either the Proposer, or any of its officers, directors, executives, partners, shareholders, members, or agents, meets any of the Prohibited Criteria.

Signature by authorized representative of Contractor  
Chris LaFace, President

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 1<sup>st</sup> day of February, 2023, by Chris LaFace, as President of Ripa & Associates, LLC. S/He  is personally known to me or  produced as identification.

(Official Notary Seal)

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



**EXHIBIT B**

**PUBLIC ENTITY CRIMES STATEMENT**

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

1. This sworn statement is submitted to Newport Isles Community Development District.
2. I am over eighteen (18) years of age and competent to testify as to the matters contained herein. I serve in the capacity of President for Ripa & Associates, LLC ("Contractor"), and am authorized to make this Sworn Statement on behalf of Contractor.
3. Contractor's business address is 1409 Tech Blvd., Suite 1, Tampa, FL 33619

- 
4. Contractor's Federal Employer Identification Number (FEIN) is 59-3497167

(If the Contractor has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

5. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
6. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
7. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
  - a. A predecessor or successor of a person convicted of a public entity crime; or,



- b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
8. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
9. Based on information and belief, the statement which I have marked below is true in relation to the Contractor submitting this sworn statement. (Please indicate which statement applies.)

XX Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity, have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies):

\_\_\_\_\_ There has been a proceeding concerning the conviction before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

\_\_\_\_\_ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administrative Hearings. The final order entered by the Administrative Law Judge determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

\_\_\_ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Florida Department of Management Services.)

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

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

Dated this 1<sup>st</sup> day of February, 2023.

Subcontractor: Ripa & Associates, LLC

By: 

Title: Chris LaFace, President

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH)

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 1<sup>st</sup> day of February, 2023, by Chris LaFace, President of Ripa & Associates, LLC. S/He  is personally known to me or  produced as identification.

(Official Notary Seal)





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

**EXHIBIT C**

**NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT  
TRENCH SAFETY ACT COMPLIANCE STATEMENT**

**INSTRUCTIONS**

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

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

**CERTIFICATION**

1. I understand that the Trench Safety Act requires me to comply with OSHA Standard 29 C.F.R.s. 1926.650 Subpart P. I will comply with The Trench Safety Act, and I will design and provide trench safety systems at all trench excavations in excess of five feet in depth for this project.
2. The estimated cost imposed by compliance with The Trench Safety Act will be:  
Nineteen Thousand Two Hundred Four and No/100 Dollars
3. The amount listed above has been included within the Contract Price.

Dated this 17 day of February, 2023.

Contractor: Ripa & Associates, LLC

By: 

Title: Chris LaFace, President

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH)

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 1<sup>st</sup> day of February, 2023, by Chris LaFace, President of Ripa & Associates, LLC S/He  is personally known to me or  produced \_\_\_\_\_ as identification.

(Official Notary Seal)



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



**NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT  
TRENCH SAFETY ACT COMPLIANCE COST STATEMENT**

**INSTRUCTIONS**

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

<b>Type of Trench Safety Mechanism</b>	<b>Quantity</b>	<b>Unit Cost<sup>1</sup></b>	<b>Item Total Cost</b>
Trench Box / Sloping	19,204	\$1.00	\$19,204.00
<b>Project Total</b>			<b>\$19,204.00</b>

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.

Contractor: Ripa & Associates, LLC

By:  \_\_\_\_\_  
Title: Chris LaFace, President

<sup>1</sup> Use cost per linear square foot of trench excavation used and cost per square foot of shoring used.

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH)

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 12 day of February, 2023, by Chris LaFace, President of Ripa & Associates, LLC S/He  is personally known to me or  produced as identification.

(Official Notary Seal)



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



**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**9B**



## DEMAND NOTE AGREEMENT

**WHEREAS**, on \_\_\_\_\_, 20\_\_\_\_, the **Newport Isles Community Development District** (the “District” or “Owner”) entered into a contract with **RIPA & Associates, LLC**, a Florida limited liability company (“Principal”), for construction services, specifically for earthwork, for the Newport Isles Mass Grading South Project, a copy of which is attached hereto as **Exhibit “A”** (the “Contract”); and

**WHEREAS**, Section 255.05(7), Florida Statutes, provides in pertinent part, “[i]n lieu of the bond required by this section, a contractor may file with the state, county, city or other political authority an alternative form of security in the form of . . . a security of a type listed in part II of chapter 625”; and

**WHEREAS**, Section 255.05(7), Florida Statutes, in *pari materia* with 625.317, Florida Statutes (a component of part II of chapter 625), permits “notes” and “other interest-bearing or interest accruing obligations of any solvent corporation organized under the laws of . . . any state” as alternative forms of security under Section 255.05(7), Florida Statutes; and

**WHEREAS**, Section 255.05(7), Florida Statutes, also provides in pertinent part, that “[a]ny such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section”; and

**WHEREAS**, the developer, **Cornerstone Land Company, LLC** (“Guarantor”), desires to provide this instrument (“Demand Note”) to obviate the need for the Principal to incur the expense of a standard public construction bond; and

**WHEREAS**, Guarantor is a solvent company organized as required by Section 255.05(7), Florida Statutes; and

**WHEREAS**, the District, Guarantor and Principal intend for this Demand Note to satisfy the requirements of Section 255.05(7), Florida Statutes, in all respects.

**NOW, THEREFORE**, in consideration of the premises set forth above and the promises contained in this Demand Note, the parties agree as follows:

### Section I

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

THE CONDITION OF THIS DEMAND NOTE is that if Principal:

1. Performs the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract; and

3. Pays Owner upon demand all losses, damages, expenses, costs and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the Contract; and

4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this Demand Note is void; otherwise it remains in full force.

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

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

### **Section II**

A. For any actual amounts due under this Demand Note, Guarantor agrees to pay such amounts upon demand of Owner, plus an amount of interest on all such losses, damages, expenses, costs and attorney's fees from the date such are incurred by Owner, at a rate of 1% per month, provided however that Guarantor's maximum liability under this Demand Note shall be equal to the Contract Price (subject to such adjustments as provided for herein).

B. In accordance with Section 255.05(7), Florida Statutes, the valuation of this Demand Note shall be set at the Contract Price, which the parties agree may be increased in amount by authorized Change Order only with the prior written consent of all parties hereto. Upon Guarantor's or Principal's submission to the District of evidence of proper payment under the Contract, the maximum liability of Guarantor under the Demand Note shall be automatically reduced in an amount equal to such payment amount, and the District shall note the same in its records.

### **Section III**

The District, Guarantor, and Principal intend for this Demand Note to satisfy the requirements of Section 255.05(7), Florida Statutes, in all respects. In the event that it is determined by a court of competent jurisdiction that this Demand Note does not satisfy such requirements, the parties agree to take all actions necessary to amend this Demand Note to the extent required to satisfy such requirements. In the event that it is determined by any court of competent jurisdiction that this Demand Note does not satisfy such requirements, and amendment of this Demand Note cannot satisfy such requirements, at the District's election, either 1) Guarantor, shall provide an alternate form of security that meets the requirements of Section 255.05(7), Florida Statutes, or 2) the District shall cause Principal to obtain, and Principal agrees to obtain, at Principals' cost and expense, a standard public construction bond pursuant to Section 255.05, *Florida Statutes*, which cost Principal may recover from the District through a change order to the Contract.

### **Section IV**

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

attorney's fees and costs incurred prior to or during any litigation or other dispute resolution and including all fees and costs incurred in appellate proceedings.

#### **Section V**

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

#### **Section VI**

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

- |           |                         |  |
|-----------|-------------------------|--|
| <b>A.</b> | <b>If to District:</b>  | Newport Isles CDD<br>c/o Wrathell, Hunt and Associates, LLC<br>2300 Glades Road, Suite 410W<br>Boca Raton, Florida 33431 |
| <b>B.</b> | <b>If to Guarantor:</b> | Cornerstone Land Company, LLC<br>1901 Ulmerton Road, Suite 475<br>Clearwater, Florida 33762                              |
| <b>C.</b> | <b>If to Principal:</b> | RIPA & Associates, LLC<br>1409 Tech Blvd Suite 1<br>Tampa, Florida 33619   |

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

## **Section VII**

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

## **Section VIII**

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

## **Section IX**

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

## **Section X**

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

## **Section XI**

This Demand Note shall become effective immediately.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURE PAGE FOR DEMAND NOTE AGREEMENT]

**WITNESSES:**

Signed, sealed and delivered  
in the presence of:

**Newport Isles Community  
Development District**

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

By: \_\_\_\_\_  
Chairperson/Vice Chairperson

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_  
online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_ by the Chairperson/Vice Chairperson of the  
Newport Isles Community Development District, on behalf of District. He/she is personally known to me or  
has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

{Notary Seal}

[SIGNATURE PAGE FOR DEMAND NOTE AGREEMENT]

Signed, sealed and delivered  
in the presence of:

**Cornerstone Land Company, LLC**  
a Florida limited liability company

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_  
online notarization this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ by \_\_\_\_\_ who is an  
authorized signatory of Cornerstone Land Company, LLC. He/she is personally known to me or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

{Notary Seal}

[SIGNATURE PAGE FOR DEMAND NOTE AGREEMENT]

Signed, sealed and delivered  
in the presence of:

**RIPA & Associates, LLC**  
a Florida limited liability company

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_  
online notarization this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ by \_\_\_\_\_ who is an  
authorized signatory of RIPA & Associates, LLC. He/she is personally known to me or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Typed name of Notary Public)  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Exhibit A:** Contract

EXHIBIT A



**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**9C**



<b>To:</b> Newport Isles CDD	<b>Contact:</b> Susan Collins
<b>Address:</b> Tampa, FL	<b>Phone:</b>
	<b>Fax:</b>
<b>Project Name:</b> Newport Isles Blvd. East West Road	<b>Bid Number:</b> 23-047
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 2/14/2023

Line #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
<b>GENERAL CONDITIONS</b>					
001	MOBILIZATION	1.00	LS	\$48,000.00	\$48,000.00
002	CONST. STAKEOUT / RECORD SURVEY - BY OWNER	0.00	LS	\$0.00	\$0.00
<b>Total Price for above GENERAL CONDITIONS Items:</b>					<b>\$48,000.00</b>
<b>EARTHWORK</b>					
003	SITE EXCAVATION (BORROW POND)	19,900.00	CY	\$3.45	\$68,655.00
<b>Total Price for above EARTHWORK Items:</b>					<b>\$68,655.00</b>
<b>PAVING</b>					
004	1.5" TYPE FC 12.5 FRICTION COURSE (PG 76-22)	25,100.00	SY	\$21.35	\$535,885.00
005	2" TYPE SP 12.5 ASPHALT	25,100.00	SY	\$22.50	\$564,750.00
006	10" LIMEROCK BASE	25,100.00	SY	\$27.60	\$692,760.00
007	BRICK PAVERS	2,815.00	SF	\$27.15	\$76,427.25
008	12" STABILIZED SUBGRADE (LBR-40)	25,415.00	SY	\$6.15	\$156,302.25
009	TYPE "D" TRENCH CURB	250.00	LF	\$31.00	\$7,750.00
010	TYPE "AB" CURB W/ STABILIZATION	6,455.00	LF	\$30.00	\$193,650.00
011	TYPE "F" CURB W/ STABILIZATION	10,165.00	LF	\$32.00	\$325,280.00
012	TYPE "RA" CURB W/ STABILIZATION	320.00	LF	\$33.00	\$10,560.00
013	4" CONCRETE SIDEWALK	73,080.00	SF	\$8.30	\$606,564.00
014	5' ADA HANDICAPPED RAMP	8.00	EACH	\$1,150.00	\$9,200.00
015	10' ADA HANDICAPPED RAMP	12.00	EACH	\$2,350.00	\$28,200.00
016	SOD 2' BOC / EOP - BAHIA	2,350.00	SY	\$3.00	\$7,050.00
017	FINAL GRADING	1.00	LS	\$83,750.00	\$83,750.00
018	SIGNAGE & STRIPING	1.00	LS	\$82,000.00	\$82,000.00
<b>Total Price for above PAVING Items:</b>					<b>\$3,380,128.50</b>
<b>STORM SEWER</b>					
019	CONNECT TO EXISTING STORM INLET	2.00	EACH	\$2,250.00	\$4,500.00
020	18" CLASS III RCP STORM	920.00	LF	\$71.25	\$65,550.00
021	24" CLASS III RCP STORM	1,512.00	LF	\$98.85	\$149,461.20
022	30" CLASS III RCP STORM	812.00	LF	\$148.75	\$120,785.00
023	36" CLASS III RCP STORM	1,304.00	LF	\$193.75	\$252,650.00
024	42" CLASS III RCP STORM	496.00	LF	\$252.75	\$125,364.00
025	48" CLASS III RCP STORM	160.00	LF	\$310.00	\$49,600.00
026	MANATEE CO. CURB INLET	38.00	EACH	\$8,250.00	\$313,500.00
027	42" RCP FES	2.00	EACH	\$7,275.00	\$14,550.00
028	48" RCP FES	1.00	EACH	\$8,950.00	\$8,950.00
029	RIP RAP AT END SECTION	3.00	EACH	\$980.00	\$2,940.00
030	DEWATERING	1.00	LS	\$66,000.00	\$66,000.00
031	STORM SEWER TESTING	1.00	LS	\$41,500.00	\$41,500.00



<b>To:</b> Newport Isles CDD	<b>Contact:</b> Susan Collins
<b>Address:</b> Tampa, FL	<b>Phone:</b>
	<b>Fax:</b>
<b>Project Name:</b> Newport Isles Blvd. East West Road	<b>Bid Number:</b> 23-047
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 2/14/2023

**Total Price for above STORM SEWER Items: \$1,215,350.20**

**FORCEMAIN**

032	CONNECT TO EXISTING FORCEMAIN	2.00 EACH	\$2,100.00	\$4,200.00
033	12" PVC FORCEMAIN (DR 18)	1,460.00 LF	\$94.75	\$138,335.00
034	10" PVC FORCEMAIN (DR 18)	1,400.00 LF	\$67.60	\$94,640.00
035	8" PVC FORCEMAIN (DR 18)	40.00 LF	\$49.15	\$1,966.00
036	6" PVC FORCEMAIN (DR 18)	2,060.00 LF	\$33.45	\$68,907.00
037	12" PLUG VALVE ASSEMBLY	1.00 EACH	\$7,400.00	\$7,400.00
038	10" PLUG VALVE ASSEMBLY	1.00 EACH	\$4,500.00	\$4,500.00
039	8" PLUG VALVE ASSEMBLY	1.00 EACH	\$2,950.00	\$2,950.00
040	6" PLUG VALVE ASSEMBLY	1.00 EACH	\$2,150.00	\$2,150.00
041	12" MJ BEND	3.00 EACH	\$1,900.00	\$5,700.00
042	10" MJ BEND	12.00 EACH	\$1,450.00	\$17,400.00
043	8" MJ BEND	2.00 EACH	\$1,050.00	\$2,100.00
044	6" MJ BEND	5.00 EACH	\$775.00	\$3,875.00
045	10" MJ TEE	1.00 EACH	\$1,950.00	\$1,950.00
046	12" MJ REDUCER	1.00 EACH	\$1,600.00	\$1,600.00
047	20" STEEL CASING (OPEN CUT)	160.00 LF	\$190.00	\$30,400.00
048	16" STEEL CASING (OPEN CUT)	80.00 LF	\$330.00	\$26,400.00
049	AIR RELEASE ASSEMBLY	1.00 EACH	\$7,500.00	\$7,500.00
050	PRESSURE TESTING	1.00 LS	\$21,500.00	\$21,500.00

**Total Price for above FORCEMAIN Items: \$443,473.00**

**WATERMAIN**

051	CONNECT TO EXISTING WATERMAIN	2.00 EACH	\$2,100.00	\$4,200.00
052	TEMPORARY JUMPER	2.00 EACH	\$10,750.00	\$21,500.00
053	12" PVC WATER MAIN (DR 18)	4,660.00 LF	\$94.40	\$439,904.00
054	8" PVC WATER MAIN (DR 18)	600.00 LF	\$50.15	\$30,090.00
055	12" GATE VALVE ASSEMBLY	2.00 EACH	\$4,700.00	\$9,400.00
056	8" GATE VALVE ASSEMBLY	2.00 EACH	\$2,900.00	\$5,800.00
057	12" MJ BEND	12.00 EACH	\$1,200.00	\$14,400.00
058	8" MJ BEND	6.00 EACH	\$610.00	\$3,660.00
059	12" MJ TEE	2.00 EACH	\$1,500.00	\$3,000.00
060	8" MJ TEE	1.00 EACH	\$950.00	\$950.00
061	12" MJ REDUCER	1.00 EACH	\$805.00	\$805.00
062	24" STEEL CASING (OPEN CUT)	90.00 LF	\$230.00	\$20,700.00
063	18" STEEL CASING (OPEN CUT)	60.00 LF	\$200.00	\$12,000.00
064	FIRE HYDRANT ASSEMBLY	6.00 EACH	\$7,700.00	\$46,200.00
065	BLOWOFF W/ AUTO FLUSH ASSEMBLY	2.00 EACH	\$10,975.00	\$21,950.00
066	SAMPLE POINT	4.00 EACH	\$625.00	\$2,500.00
067	TEMPORARY BLOWOFF ASSEMBLY	2.00 EACH	\$675.00	\$1,350.00
068	CHLORINE INJECTION POINT	2.00 EACH	\$675.00	\$1,350.00
069	CHLORINATION & PRESSURE TESTING	1.00 LS	\$26,500.00	\$26,500.00



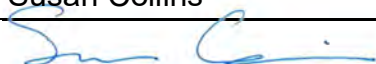
<b>To:</b> Newport Isles CDD	<b>Contact:</b> Susan Collins
<b>Address:</b> Tampa, FL	<b>Phone:</b>
	<b>Fax:</b>
<b>Project Name:</b> Newport Isles Blvd. East West Road	<b>Bid Number:</b> 23-047
<b>Project Location:</b> Buckeye Road, Palmetto, FL	<b>Bid Date:</b> 2/14/2023

**Total Price for above WATERMAIN Items: \$666,259.00**

**Total Bid Price: \$5,821,865.70**

**Notes:**

- CONSTRUCTION STAKING & RECORD SURVEY BY OTHERS
- GEOTECHNICAL/ MATERIALS TESTING IS BY OTHERS.
- BONDING NOT INCLUDED.
- PERMIT / INSPECTION FEES BY OTHERS.
- ASSUMES DISCING SHALL BE ACCEPTED BY THE GEOTECHNICAL ENGINEER.
- ASSUMES PAD ELEVATION IS 6" BELOW FINISH FLOOR (+/- 0.10' TOLERANCE).
- THIS PROPOSAL IS BASED ON EXISTING TOPO NOTED ON THE DRAWINGS BEING ACCURATE WITHIN 0.2 FEET AT ANY GIVEN LOCATION. TOPO VERIFICATION MAY BE REQUIRED PRIOR TO FINAL CONTRACT.
- THIS PROPOSAL IS BASED ON A GEOTECHNICAL REPORT PROVIDED BY FAULKNER ENGINEERING SERVICES, DATED 11/24/2020.
- THIS PROPOSAL IS BASED ON ALL ONSITE CUT MATERIAL, INCLUDING MATERIAL FROM PIPE TRENCHES, BEING USABLE FOR STRUCTURAL / PAVEMENT AREAS AND TRENCH BACKFILL. REMOVAL AND REPLACEMENT OF UNSUITABLE MATERIAL IS NOT INCLUDED.
- NO ALLOWANCE HAS BEEN MADE FOR TESTING, HANDLING, TREATING, REMOVING OR DISPOSING OF HAZARDOUS OR CONTAMINATED MATERIALS, SOILS, OR GROUNDWATER. IN ADDITION, REMOVAL AND DISPOSAL OF BURIED TRASH IS NOT INCLUDED.
- TELEPHONE, POWER, CABLE, IRRIGATION, ETC. CONDUIT AND SLEEVES BY OTHERS, UNLESS SPECIFIED.
- UNLESS NOTED, WE HAVE NOT INCLUDED ANY ADJUSTMENTS/REMOVAL OR RELOCATION OF EXISTING UTILITIES WHICH MAY CONFLICT WITH PROPOSED WORK.
- ITEMS NOT INCLUDED ARE: BERM CONSTRUCTION; IMPORT FILL; WELL ABANDONMENT; LANDSCAPING; IRRIGATION; ROOT PRUNING; TREE TRIMMING; INVASIVE SPECIES REMOVAL; MITIGATION PLANTINGS; DEMOLITION; STRIPPING OF SITE; FENCE; AND PERIMETER WALLS.
- **FUEL PRICING IS BASED ON \$4.00 / GALLON FOR OFF-ROAD DIESEL FUEL. THIS PROPOSAL IS VALID FOR 30 DAYS.** DUE TO THE VOLATILITY OF FUEL, PETROLEUM / PVC AND CONCRETE PRODUCTS, WE ARE UNABLE TO PREDICT TOMORROW'S MARKET. THIS PROPOSAL DOES NOT INCLUDE ANY ADJUSTMENTS / SURCHARGE FOR MATERIAL PRICE INCREASES.
- THIS PROPOSAL IS BASED ON CONSTRUCTION PLANS RECIEVED 01/26/2023

<p><b>ACCEPTED:</b> The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p><b>Buyer:</b> <u>Susan Collins</u></p> <p><b>Signature:</b> </p> <p><b>Date of Acceptance:</b> <u>February 22, 2023</u></p>	<p><b>CONFIRMED:</b> <b>Ripa &amp; Associates</b></p> <p><b>Authorized Signature:</b> _____</p> <p><b>Estimator:</b> Curtis Mast 813-415-7771 cmast@ripaconstruction.com</p>
---	--

# **NEWPORT ISLES**

## **COMMUNITY DEVELOPMENT DISTRICT**

# **10**

**UNIFORM COLLECTION AGREEMENT  
NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT**

THIS UNIFORM COLLECTION AGREEMENT FOR DISTRICT ASSESSMENTS ("Agreement") is made and entered into this 24 day of February, 2023, by and between Newport Isles Community Development District ("District"), whose address is 2300 Glades Road, Suite 410W Boca Raton, Florida 33431, the Honorable Ken Burton Jr., State Constitutional Tax Collector in and for Manatee County, an independent constitutional county officer of the State of Florida, whose address is 819 301 Boulevard West, Bradenton, Florida 34205 ("Tax Collector") and the Honorable Charles E. Hackney, State Constitutional Property Appraiser in and for Manatee County, an independent constitutional county officer of the State of Florida, whose address is 915 4th Avenue West, Bradenton, Florida 34205 ("Property Appraiser").

**SECTION I**  
**Findings and Determinations**

The parties find and determine:

1. The District is authorized to impose and levy, and by appropriate resolutions has expressed its intent to use, the statutory uniform methodology of collection for, certain non-ad valorem special assessments ("Assessments"), as authorized by constitutional and statutory municipal home rule and by Section 197.3632, Florida Statutes and Rule 12D-18, Florida Administrative Code, as amended; and
2. The term "Assessments" means those certain levies by the District, which constitute non-ad valorem special assessments pursuant to Section 197.3632, Florida Statutes; and
3. The uniform statutory collection methodology is provided in Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code ("uniform methodology"), with its enforcement provisions, including the use of tax certificates and tax deeds for enforcing against any delinquencies; and
4. The uniform methodology is more fair to the delinquent property owner than traditional lien foreclosure methodology; and
5. The uniform methodology provides for more efficiency of collection by virtue of the Assessment being on the official tax notice ("Tax Notice") issued by the Tax Collector which will produce positive economic benefits to the District and its citizens, property owners and taxpayers; and
6. The uniform methodology, through use of the Tax Notice, will tend to eliminate confusion and promote local government accountability; and

7. The Tax Collector, as a state constitutional officer for the county political subdivision, is charged by general law in Chapter 197, Florida Statutes, and related rules and regulations, to implement the uniform method of collecting Assessments; and
8. The sole and exclusive responsibility to determine, impose and levy the Assessments and to determine that an Assessment is a legal, constitutional and lienable non-ad valorem special assessment for improvements and related systems, facilities and services is that of the District and no other person, entity or officer.

**SECTION II**  
**Applicable Law and Regulations**

1. Sections 197.3631, 197.3632, and 197.3635, Florida Statutes; Rule 12D-18, Florida Administrative Code, and all other applicable provisions of constitutional and statutory law, govern the exercise by the District of its local self-government power to render and pay for municipal services.
2. Section 1(d), Article VIII, Florida Constitution; Chapter 197, Florida Statutes; Rule 12D-13, Florida Administrative Code; Rule 12D-18, Florida Administrative Code; and other applicable provisions of constitutional and statutory law apply to the Tax Collector in his capacity as a state constitutional county officer for the purpose of collecting and enforcing non-ad valorem special assessments levied by District authorities within the boundaries of the District.
3. Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code, has provisions that apply to the District, the Tax Collector, the Department of Revenue and the Property Appraiser.
4. Section 200.069, Florida Statutes, requires the Property Appraiser to send to all taxpayers a notice of proposed property taxes and non-ad valorem assessments ("TRIM Notice") on behalf of the taxing authorities and local governing boards.

**SECTION III**  
**Purpose**

1. The purpose of this Agreement under Rule 12D-18, Florida Administrative Code, is to meet the requirements of Section 197.3632(2), Florida Statutes, requiring the District to enter into a written agreement with the Property Appraiser and the Tax Collector providing for reimbursement of necessary administrative costs related to the collection of the Assessments levied by the District. This Agreement further includes compensation by the District to the Tax Collector for actual costs of collection pursuant to Section 197.3632(8)(c), Florida Statutes; payment by District of any costs involved in separate mailings because of non-merger of any non-ad valorem special assessment roll as certified by the District, or its agent, pursuant to Section 197.3632(7), Florida Statutes; and reimbursement by District for necessary administrative costs, including, but not limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage

and programming which attend all of the collection and enforcement duties imposed upon the Tax Collector by the uniform methodology, as provided in Section 197.3632(2), Florida Statutes.

2. Additionally, the purpose of this Agreement under Rule 12D-18, Florida Administrative Code, is to establish the terms and conditions under which the Property Appraiser shall perform his statutory duties under Section 197.3632, Florida Statutes, which include providing the District with legal descriptions of properties and the names and addresses of all property owners.

#### **SECTION IV**

##### **Term**

1. The term of this Agreement shall commence upon execution, effective for 2023 Tax Notice purposes, and shall continue and extend uninterrupted from year-to-year, automatically renewed for successive periods not to exceed one (1) year each.
2. This Agreement shall continue in full force and effect until terminated by the Tax Collector and/or the Property Appraiser and if not terminated by Tax Collector or Property Appraiser, the Agreement shall continue until the District informs the Tax Collector, as well as Property Appraiser and the Department of Revenue, by 10 January of the calendar year, if the District intends to discontinue to use the uniform methodology for such Assessments pursuant to Section 197.3632(6), Florida Statutes and Rule 12D-18.006(3), Florida Administrative Code, using Form DR-412 promulgated by the Florida Department of Revenue.

#### **SECTION V**

##### **Duties and Responsibilities of District**

District agrees, covenants and contracts to:

1. Compensate the Tax Collector for collection costs and reimburse administrative costs incurred pursuant to Sections 197.3632(2) and 197.3632(8)(c), Florida Statutes and Rule 12D-18.004(2), Florida Administrative Code. District agrees that an annual payment of 1.5% of the Assessments collected is an accurate estimate of the collection costs and administrative costs (which include, but are not limited to those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming) incurred by the Tax Collector. District agrees to the Tax Collector being paid the 1.5% through deduction before the amounts are remitted.
2. Reimburse the Property Appraiser for necessary administrative costs incurred by the Property Appraiser under the uniform methodology, pursuant to Section 197.3632(2), Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code, to include, but not limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming. District and Property Appraiser agree that an annual payment of 1.5% of the Assessments collected is an accurate estimate of the administrative costs incurred by the Property Appraiser. District agrees to the Property Appraiser being paid the 1.5% through deduction before the amounts are remitted.



3. Pay for, or alternatively reimburse, the Tax Collector for any separate tax notice necessitated by the inability of the Tax Collector to merge the non-ad valorem special assessment roll certified by the District pursuant to Section 197.3632(7), Florida Statutes and Rule 12D-18.004(2) Florida Administrative Code to produce a combined notice for ad valorem taxes and non-ad valorem assessments. The parties acknowledge that the actual merger of the non-ad valorem special assessments roll in with the ad valorem assessments has been and will be a function performed by the Property Appraiser pursuant to a separate agreement between the Property Appraiser and the Tax Collector to which the District is not a party. However, the combined notice shall be produced by the Tax Collector.
4. Upon being timely billed, District shall pay directly for necessary advertising relating to implementation of the uniform non-ad valorem special assessment law pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code.
5. Certify its non-ad valorem assessments roll to the Property Appraiser and Tax Collector after August 31st and on or before 15 September of each calendar year pursuant to Section 197.3632(5)(a), Florida Statutes, and Rule 12D-18.006, Florida Administrative Code using the Certify option in the Property Appraiser's NAV Web Portal; <https://nav.manateepao.com> ("NAV Web Portal"). The Certify option will produce form DR-408A and affix to it an itemized list of parcel identification numbers and associated Assessments. District shall exercise its responsibility that such non-ad valorem assessments roll is in compliance with Section 197.3632(10) and is free of errors and omissions. District agrees to use the Corrections feature in the NAV Web Portal to correct individual Assessment errors. District acknowledges that additional fees may be charged by the Tax Collector to correct an abundance of errors after roll certification. District further acknowledges that its Assessments will be zeroed out if the District fails to certify its non-ad valorem assessments roll by the 15 September statutory deadline.
6. Abide by and implement its duties under the uniform law pursuant to all the provisions of Sections 197.3632 and 197.3635, Florida Statutes, or its successor of statutory provisions and all applicable rules promulgated by the Department of Revenue and their successor rules.
7. Acknowledge that the Tax Collector and Property Appraiser have no duty, authority or responsibility in the imposition and levy of any non-ad valorem special assessments, including the District's Assessment, and that it is the sole responsibility and duty of the District to follow all procedural and substantive requirements for the levy and imposition of constitutionally lienable non-ad valorem special assessments, including the Assessments.
8. Include its Assessments in the TRIM Notice pursuant to Section 200.069, Florida Statutes, and to update ("upload") or verify its Assessments in the NAV Web Portal on or before August 1<sup>st</sup> of each year to insure the Assessments that appear in the TRIM Notice closely match those that will appear in the Tax Notice. District is exempt from this requirement if its boundary does not lie wholly within Manatee County, Florida. District acknowledges that irrespective of its boundary, any and all Assessments uploaded to the NAV Web Portal on or before August 1<sup>st</sup> will appear in the TRIM Notice.
9. To the extent permitted by applicable Florida law, and specifically subject to the provisions and dollar limitations set forth in Section 768.28, Florida Statutes, the District shall indemnify and hold

harmless Tax Collector and Property Appraiser to the extent of any legal action which may be filed in local, state or federal courts against Tax Collector and/or Property Appraiser regarding the imposition, levy, roll preparation and certification of the Assessments arising from the negligence of the District or its agents, officers, or employees; District shall pay for or reimburse Tax Collector and/or Property Appraiser for fees for legal services rendered to Tax Collector and/or Property Appraiser with regard to any such legal action. Nothing herein shall constitute a waiver of sovereign immunity or the limitations on liability provided under the Florida Constitution or general law.

**SECTION VI**  
**Duties of the Tax Collector**

1. Except as provided in paragraph 5 below, the Tax Collector shall prepare a combined notice (the "Tax Notice") for both ad valorem taxes and non-ad valorem special assessments for all levying authorities within the boundaries of the District, pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and their successor provisions, and any applicable rules, and their successor rules, promulgated by the Department of Revenue, and in accordance with any specific ordinances or resolutions adopted by the District, so long as said ordinances and resolutions shall themselves clearly state the intent to use the uniform method for collecting such Assessments and so long as they are further not inconsistent with, or contrary to, the provisions of Sections 197.3632 and 197.3635, Florida Statutes, and their successor provisions, and any applicable rules.
2. The Tax Collector shall collect the Assessments of the District as certified by the District, or its agent, to the Property Appraiser and the Tax Collector no later than 15 September of each calendar year on form DR-408A with an itemized list of parcel identification numbers and associated Assessments affixed to it, and free of errors or omissions.
3. The Tax Collector agrees to cooperate with the District in implementation of the uniform methodology for collecting Assessments pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and any successor provisions and applicable rules. The Tax Collector shall not accept any non-ad valorem assessment roll for the Assessments of the District that is not officially, timely and legally certified to the Tax Collector pursuant to Chapter 197, Florida Statutes, and Rule 12D-18, Florida Administrative Code.
4. The Tax Collector agrees upon request to submit a report that contains payment information received for non-ad valorem assessments including, but not limited to, the property identification number for the parcel and the amount received.
5. If the Tax Collector discovers errors or omissions on such roll, the Tax Collector may request the District to file a corrected roll or a correction of the amount of any Assessment, and the District shall bear the cost of any such error or omission.
6. If the Tax Collector, in its discretion, determines that a separate mailing is authorized pursuant to Section 197.3632(7), Florida Statutes, and any applicable rules promulgated by the Department of Revenue, and any successor provision to said law or rules, the Tax Collector shall either mail a separate notice of the particular Assessment or shall direct the District to mail such a separate

notice. In making this decision, the Tax Collector shall consider all costs to the District and to the taxpayers of such a separate mailing as well as the adverse effect to the taxpayers of delay in multiple notices. If such a separate mailing is effected, the District shall bear all costs associated with the separate notice for the Assessment that could not be merged, upon timely billing by the Tax Collector.

**SECTION VII**  
**Duties of the Property Appraiser**

1. Annually by June 1, the Property Appraiser shall provide District the information required by Section 197.3632(3)(b), Florida Statutes by the NAV Web Portal, with the legal description of the property affected by the levy, and the names and addresses of the owners of each parcel. District, or its agent, will be required to enter into a non-disclosure agreement with the Property Appraiser in order to receive information protected under Section 119, Florida Statutes.
2. The Property Appraiser shall merge the District's non-ad valorem assessments roll with the tax roll to enable the Tax Collector to prepare a combined Tax Notice for both ad valorem taxes and non-ad valorem special assessments.
3. The Property Appraiser shall zero out the District's Assessments if the District fails to certify its non-ad valorem assessments roll to the Property Appraiser and the Tax Collector on or before 15 September pursuant to Section 197.3632(5)(a), Florida Statutes, and Rule 12D-18.006, Florida Administrative Code.
4. Upon request of a property owner, the Property Appraiser will split or combine tax parcels ("Parent Parcel"). If the parcel identification number of a Parent Parcel is individually referenced in the resolution or ordinance establishing or modifying the District boundary, the Property Appraiser shall zero out the District's Assessment on the resulting parcel or parcels ("Child Parcels"). If the parcel identification number of a Parent Parcel is not individually referenced in the resolution or ordinance establishing or modifying the District boundary, the Property Appraiser will equally apportion the District's Assessment to the resulting Child Parcels.
5. The Property Appraiser will place the District's most recently uploaded Assessments prior to August 1st on the TRIM Notices regardless of how long ago the last upload may have occurred.

**SECTION VIII**  
**Miscellaneous**

1. The parties shall perform all their obligations under this Agreement in accordance with good faith and prudent practice.
2. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein and may not be amended, modified or rescinded, unless otherwise provided in this Agreement, except in writing and signed by all the parties hereto. Should any

provision of this Agreement be declared to be invalid, the remaining provisions of this Agreement shall remain in full force and effect, unless such provision found to be invalid alters substantially the benefits or the Agreement for either of the parties or renders the statutory and regulatory obligations unable to be performed. All prior agreements between the parties hereto addressing the matters set forth herein are hereby terminated and superseded by this Agreement.

3. This Agreement shall be governed by the laws of the State of Florida.
4. Written notice shall be given to the parties at the following addresses, or such other place or person as each of the parties shall designate by similar notice:
  - a. As to Tax Collector: The Honorable Ken Burton Jr.  
Manatee County Tax Collector  
819 301 Boulevard West  
Bradenton, Florida 34205
  - b. As to Property Appraiser: The Honorable Charles E. Hackney  
Manatee County Property Appraiser  
915 Fourth Ave West  
Bradenton, Florida 34205
  - c. As to District: Newport Isles Community Development District  
Susan Collins  
2300 Glades Road, Suite 410W  
Boca Raton, Florida 33431

IN WITNESS WHEREOF, the parties have hereunto set, their hands and seals and such of them as are corporations have caused these presents to be signed by their duly authorized officers.

WITNESS

MANATEE COUNTY TAX COLLECTOR

By: DocuSigned by:  
Steve Riley  
7DA13407438848D...  
Steve Riley

By: DocuSigned by:  
Ken Burton Jr.  
9F30AF1C3780422...  
Ken Burton Jr.

Date: 2/28/2023

Date: 2/28/2023

WITNESS

MANATEE COUNTY PROPERTY APPRAISER

By: DocuSigned by:  
Mark Johns  
66C51409E2654D6...  
Mark Johns

By: DocuSigned by:  
Charles E. Hackney  
C9AA97C24B844B0...  
Charles E. Hackney

Date: 2/28/2023

Date: 2/28/2023

As authorized for execution by the Local Governing Board of Newport Isles Community Development District

WITNESS

NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT

By: DocuSigned by:  
Jonah Reuther  
0DC58C9BE82144D...  
Jonah Reuther

By: DocuSigned by:  
Susan Collins  
A88715F4F29042A...  
Susan Collins

Date: 2/24/2023

Date: 2/24/2023

**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**UNAUDITED**  
**FINANCIAL**  
**STATEMENTS**

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
FINANCIAL STATEMENTS  
UNAUDITED  
MARCH 31, 2023**

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
BALANCE SHEET  
GOVERNMENTAL FUNDS  
MARCH 31, 2023**

	General Fund	Debt Service Fund	Capital Projects Fund	Total Governmental Funds
<b>ASSETS</b>				
Cash	\$ 6,865	\$ -	\$ -	\$ 6,865
Undeposited funds	7,660	-	-	7,660
Total assets	<u>\$ 14,525</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 14,525</u>
<b>LIABILITIES AND FUND BALANCES</b>				
Liabilities:				
Accounts payable	\$ 7,660	\$ -	\$ -	\$ 7,660
Due to Landowner	-	3,818	5,295	9,113
Due to other	649	-	-	649
Accrued wages payable	200	-	-	200
Accrued taxes payable	16	-	-	16
Landowner advance	6,000	-	-	6,000
Total liabilities	<u>14,525</u>	<u>3,818</u>	<u>5,295</u>	<u>23,638</u>
Fund balances:				
Restricted for:				
Debt service	-	(3,818)	-	(3,818)
Capital projects	-	-	(5,295)	(5,295)
Total fund balances	<u>-</u>	<u>(3,818)</u>	<u>(5,295)</u>	<u>(9,113)</u>
Total liabilities and fund balances	<u>\$ 14,525</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 14,525</u>



**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
FOR THE PERIOD ENDED MARCH 31, 2023**

	Current Month	Year to Date	Budget	% of Budget
<b>REVENUES</b>				
Landowner contribution	\$ 19,884	\$ 42,288	\$ 112,326	38%
Total revenues	<u>19,884</u>	<u>42,288</u>	<u>112,326</u>	38%
<b>EXPENDITURES</b>				
<b>Professional &amp; administrative</b>				
Supervisors	-	861	7,536	11%
Management/accounting/recording	4,000	24,000	48,000	50%
Legal	1,922	10,222	25,000	41%
Engineering	-	-	2,000	0%
Audit	-	-	5,500	0%
Arbitrage rebate calculation*	-	-	500	0%
Dissemination agent*	-	-	1,000	0%
Debt service fund accounting: 1st series*	-	-	7,500	0%
Trustee*	-	-	5,500	0%
Telephone	16	100	200	50%
Postage	-	-	500	0%
Printing & binding	42	250	500	50%
Legal advertising	-	-	1,500	0%
Annual special district fee	-	175	175	100%
Insurance	-	5,000	5,500	91%
Contingencies/bank charges	-	-	500	0%
Website hosting & maintenance	1,680	1,680	705	238%
Website ADA compliance	-	-	210	0%
Total expenditures	<u>7,660</u>	<u>42,288</u>	<u>112,326</u>	38%
Excess/(deficiency) of revenues over/(under) expenditures	12,224	-	-	
Fund balances - beginning	(12,224)	-	-	
Fund balances - ending	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	

\*These items will be realized when bonds are issued.

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND  
FOR THE PERIOD ENDED MARCH 31, 2023**

	<u>Current Month</u>	<u>Year To Date</u>
<b>REVENUES</b>	<u>\$ -</u>	<u>\$ -</u>
Total revenues	<u>-</u>	<u>-</u>
 <b>EXPENDITURES</b>		
<b>Debt service</b>	<u>-</u>	<u>-</u>
Total debt service	<u>-</u>	<u>-</u>
 Excess/(deficiency) of revenues over/(under) expenditures	 - -	 - -
 Fund balances - beginning	 <u>(3,818)</u>	 <u>(3,818)</u>
Fund balances - ending	<u><u>\$ (3,818)</u></u>	<u><u>\$ (3,818)</u></u>

**NEWPORT ISLES  
COMMUNITY DEVELOPMENT DISTRICT  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
CAPITAL PROJECTS FUND  
FOR THE PERIOD ENDED MARCH 31, 2023**

	<u>Current Month</u>	<u>Year To Date</u>
<b>REVENUES</b>	<u>\$ -</u>	<u>\$ -</u>
Total revenues	<u>-</u>	<u>-</u>
 <b>EXPENDITURES</b>		
Construction costs	<u>-</u>	<u>1,686</u>
Total expenditures	<u>-</u>	<u>1,686</u>
 Excess/(deficiency) of revenues over/(under) expenditures	 - -	  (1,686)
 Fund balances - beginning	 <u>(5,295)</u>	 <u>(3,609)</u>
Fund balances - ending	<u>\$ (5,295)</u>	<u>\$ (5,295)</u>

**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**MINUTES**

**DRAFT**  
**MINUTES OF MEETING**  
**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

The Newport Isles Community Development District Board of Supervisors held a Regular Meeting on October 26, 2022, at 10:00 a.m., at WRA Engineering, 7978 Cooper Creek Blvd., Suite 102, University Park, Florida 34201.

**Present at the meeting were:**

Susan Collins	Chair
Richard James	Vice Chair
Clifton Fischer	Assistant Secretary
Jake Essman (via telephone)	Assistant Secretary

**Also present were:**

Craig Wrathell	District Manager
Kristen Suit	Wrathell, Hunt and Associates, LLC (WHA)
Meredith Hammock	District Counsel
Jerry Earlywine (via telephone)	District Counsel
Clint Cuffle	Interim District Engineer
Tom Chapman	Landowner
David Berner	Southeast Land Consultants

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Wrathell called the meeting to order at 10:23 a.m. Supervisors Collins, James and Fischer were present. Supervisor Essman attended via telephone. Supervisor Misenhelder was not present.

**SECOND ORDER OF BUSINESS**

**Public Comments**

No members of the public spoke.

**THIRD ORDER OF BUSINESS**

**Acceptance of Resignation of Supervisor George Misenhelder, Seat 3 (*Term Expires November 2024*)**

Mr. Wrathell presented the resignation of Mr. George Misenhelder from Seat 3.

On MOTION by Mr. Fischer and seconded by Mr. James, with all in favor, the resignation of Mr. George Misenhelder from Seat 3, was accepted.

43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80

**FOURTH ORDER OF BUSINESS**

**Consider Appointment to Fill Unexpired Term of Vacant Seat 3 (*Term Expires November 2024*)**

- **Administration of Oath of Office to Newly Appointed Supervisor (*the following will be provided in a separate package*)**
  - I. **Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
  - II. **Membership, Obligations and Responsibilities**
  - III. **Financial Disclosure Forms**
    - a. **Form 1: Statement of Financial Interests**
    - b. **Form 1X: Amendment to Form 1, Statement of Financial Interests**
    - c. **Form 1F: Final Statement of Financial Interests**
  - IV. **Form 8B – Memorandum of Voting Conflict**

This item was deferred.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2023-01, Designating Certain Officers of the District, and Providing for an Effective Date**

This item was deferred.

**SIXTH ORDER OF BUSINESS**

**Consideration of Work Authorization for Engineering Services**

This item was deferred.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Response(s) to RFP for Clearing and Grading Project (North Phase)**

**A. Proof/Affidavit of Publication**

The affidavit of publication was included for informational purposes.

**B. Respondent(s): RIPA & Associates, LLC**

**C. Ranking**

81 **D. Award of Contract**

82 Mr. Wrathall stated that Staff conferred prior to the meeting and recommends rejecting  
83 the response to the Request for Proposals (RFPs) project in the North Phase from the sole  
84 respondent, RIPA & Associates, LLC (RIPA), on the basis that this might not go through the CDD.

85 Mr. Chapman asked if RFPs are needed for Phases II and III. Mr. Earlywine stated that  
86 once the South Phase project is approved, change orders can be added to the contract.

87

88 **On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor,**  
89 **rejecting RIPA & Associates, LLC response to the RFP for the Clearing and**  
90 **Grading Project for the North Phase, on the basis that this might not go**  
91 **through the CDD, was approved.**

92

93

94 **EIGHTH ORDER OF BUSINESS**

**Consideration of Response(s) to RFP for  
Clearing and Grading Project (South Phase)**

95

96

97 **A. Proof/Affidavit of Publication**

98 The affidavit of publication was included for informational purposes.

99 **B. Respondent(s): RIPA & Associates, LLC**

100 **C. Ranking**

101 **D. Award of Contract**

102 Mr. Wrathell stated that RIPA bid \$22,489,968.65. He asked District Counsel to confirm  
103 that having only one respondent is not problematic, as long as the District Engineer and the  
104 Board agree that RIPA’s response to the RFP is responsive and RIPA is a responsible firm.

105 Mr. Earlywine stated it is not a problem. Since the bid is above what was considered for  
106 the budget, he provided language to incorporate into the motion, if the Board wants to  
107 proceed.

108 Mr. Cuffle reviewed the RFP package and RIPA’s response. He voiced his opinion that  
109 RIPA met all the requirements in the bid package and the quantities and pricing are in line with  
110 recent contracts for similar projects. Mr. Cuffle’s recommendation is that RIPA met the  
111 requirements and that possible future value engineering items will be needed with this phase.  
112 District Staff addressed budget concerns indicating that unit cost rates are consistent and the  
113 contract will be contingent on incorporating value engineering.

114

115  
116  
117  
118  
119

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, accepting the scoring and ranking, ranking RIPA & Associates, LLC, as the #1 ranked respondent to the RFP for the Clearing and Grading Project for the South Phase, and recognizing RIPA as a responsive and responsible firm that meets the CDD's criteria, was approved.**

120  
121

122  
123  
124  
125  
126

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, awarding the contract to RIPA and authorizing the Chair and Staff to negotiate the terms of the contract with RIPA, contingent upon implementing value engineering and final approval by the Chair, in a not-to-exceed amount of \$22,489,968.65, and authorizing the Chair to execute, was approved.**

127  
128

129  
130  
131

#### **NINTH ORDER OF BUSINESS**

#### **Consideration of Acquisition and Advanced Funding Agreement**

132  
133  
134

Mr. Earlywine noted provisions in the Acquisition and Advanced Funding Agreement. He requested approval in substantial form; the contract will be updated to reflect that it is solely with Cornerstone.

135

136  
137  
138  
139

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, the Acquisition and Advanced Funding Agreement between Newport Isles Community Development District and Cornerstone Land Company, LLC, in substantial form, was approved.**

140  
141

142  
143  
144

#### **TENTH ORDER OF BUSINESS**

#### **Consideration of Construction Funding Agreement (Clearing and Grading Project – South Phase)**

145  
146  
147  
148  
149

Mr. Earlywine explained the purpose of the Construction Funding Agreement and differences between it and the Agreement that was just approved. He requested approval, in substantial form, to replace "R. Thomas Chapman" with "Cornerstone Land Company, LLC" in the Agreement.

150

151  
152  
153  
154

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, the Construction Funding Agreement between Newport Isles Community Development District and Cornerstone Land Company, LLC, for the Clearing and Grading Project for the South Phase, in substantial form, was approved.**

155  
156



157 **ELEVENTH ORDER OF BUSINESS**

**Consideration of Temporary Construction Easement (CC Manatee Land Investments, LLC)**

158  
159  
160  
161  
162  
163

Mr. Earlywine presented the Temporary Construction Easement for the South Phase area, which automatically terminates upon platting of the lands or conveyance to the CDD.

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, the Temporary Construction Easement between CC Manatee Land Investments, LLC and Newport Isles Community Development District, in substantial form, was approved.**

164  
165  
166  
167  
168  
169  
170

**Mr. James stepped out of the meeting at 10:40 a.m.**

171

172 **TWELFTH ORDER OF BUSINESS**

**Consideration of Responses to RFQ for Engineering Services**

173  
174

175 **A. Proof/Affidavit of Publication**

The affidavit of publication was included for informational purposes.

176

177 **B. Respondent(s):**

**I. Lighthouse Engineering, Inc.**

178

**II. WRA Engineering, LLC**

179

180 **C. Ranking**

Ms. Hammock discussed the bid requirements and statutes to provide Professional Services. She reviewed the RFQ, point structure and ranking criteria and process and provided information about what the Board can consider when scoring the respondents.

181

182

183

**Mr. James rejoined the meeting at 10:49 a.m.**

184

The Board Members scored each respondent. Ms. Suit read each Board Members' individual scores for each respondent and reported the following overall scores and ranking:

185

186

#1 WRA Engineering, LLC 290 points

187

#2 Lighthouse Engineering, Inc. 224 points

188

189

**On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor, accepting the scoring and ranking and ranking WRA Engineering, LLC as the #1 ranked respondent to the RFQ for Engineering Services, was approved.**

190

191

192

193



234 C. District Manager: *Wrathell, Hunt and Associates, LLC*

- 235 • NEXT MEETING DATE: November 21, 2022 at 10:00 A.M.

- 236 ○ QUORUM CHECK

237 The meeting scheduled for November 21, 2022 was canceled. The next meeting will be  
238 held on December 19, 2022, unless canceled.

239 With the canceled meeting, Mr. Wrathell asked if change orders can be executed between  
240 meetings and ratified at a future meeting to prevent construction delays. Mr. Earlywine  
241 outlined the parameters for processing change orders, including authorizing approval of change  
242 orders for up to the amount set forth in the Engineer’s Report and ratifying the change orders  
243 at a future meeting.

244 Mr. Earlywine and Ms. Hammock addressed Board Member concerns about  
245 Cornerstone paying and being reimbursed Surveyor’s costs, the change order process built into  
246 the contract and Florida Statute requiring contractors to provide a performance bond for  
247 government contracts.

248 Since there is no other vendor, Mr. Earlywine suggested the Chair and Staff begin the  
249 value engineering conversation with RIPA and defer sending the final notice of award letter.

250

251 **On MOTION by Mr. Fischer and seconded by Ms. Collins, with all in favor,**  
252 **authorizing the Chair and the Vice Chair, in the absence of the Chair, to execute**  
253 **Change Orders following the process outlined by District Counsel and**  
254 **ratification at a future Board meeting, was approved.**

255

256

257 **SIXTEENTH ORDER OF BUSINESS**

**Board Members’ Comments/Requests**

258

259 There were no Board Members’ comments or requests.

260

261 **SEVENTEENTH ORDER OF BUSINESS**

**Public Comments**

262

263 No members of the public spoke.

264

265 **EIGHTEENTH ORDER OF BUSINESS**

**Adjournment**

266

267

268 **On MOTION by Mr. Fischer and seconded by Mr. James, with all in favor, the**  
269 **meeting adjourned at 11:09 a.m.**

270  
271  
272  
273  
274  
275

---

Secretary/Assistant Secretary

---

Chair/Vice Chair

**NEWPORT ISLES**  
**COMMUNITY DEVELOPMENT DISTRICT**

**STAFF**  
**REPORTS**

**MICHAEL BENNETT • SUPERVISOR OF ELECTIONS • MANATEE COUNTY**

600 301 Boulevard West, Suite 108, Bradenton, Florida 34205-7946  
PO Box 1000, Bradenton, Florida 34206-1000



Phone: 941-741-3823 • Fax: 941-741-3820 • [VoteManatee.com](http://VoteManatee.com) • [Info@VoteManatee.com](mailto:Info@VoteManatee.com)

April 20, 2023

Newport Isles Community Development District  
Wrathell, Hunt and Associates, LLC  
Attn: Daphne Gillyard  
2300 Glades Rd., Suite 410W  
Boca Raton FL 33431

Dear Ms. Gillyard:

We are in receipt of your request for the number of registered voters in the Newport Isles Community Development District of April 15, 2023. According to our records, there were 0 persons registered in the Newport Isles Community Development District as of that date.

I hope this information is helpful to you. If I can be of any further assistance to you, please do not hesitate to contact my office at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Bennett". The signature is fluid and cursive.

Michael Bennett  
Supervisor of Elections

MB/sas

**NEWPORT ISLES COMMUNITY DEVELOPMENT DISTRICT**

**BOARD OF SUPERVISORS FISCAL YEAR 2022/2023 MEETING SCHEDULE**

**LOCATION**

*WRA Engineering, 7978 Cooper Creek Blvd., Suite 102, University Park, Florida 34201*

<b>DATE</b>	<b>POTENTIAL DISCUSSION/FOCUS</b>	<b>TIME</b>
<b>October 17, 2022 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>October 26, 2022</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>November 21, 2022 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>December 19, 2022 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>January 16, 2023 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>February 20, 2023 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>March 20, 2023 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>April 17, 2023 CANCELED</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>May 15, 2023</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>June 19, 2023</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>July 17, 2023</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>August 21, 2023</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>
<b>September 18, 2023</b>	<b>Regular Meeting</b>	<b>10:00 AM</b>