

AGREEMENT

Between

BROWARD COUNTY

and

ROYAL CARIBBEAN CRUISES LTD.

For

CONSTRUCTION AGENCY SERVICES

FOR

**CRUISE PASSENGER TERMINAL 25 IMPROVEMENTS
AT
PORT EVERGLADES**

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- Exhibit A-1: Project Budget
- Exhibit A-2: Project Schedule
- Exhibit B: Project Area
- Exhibit C: Insurance Requirements
- Exhibit D: CBE Utilization Report
- Exhibit E: Competitive Procurement Requirements
- Exhibit E-1: Form of CMRA
- Exhibit E-2: Limited Notice to Proceed
- Exhibit E-3: Forms of Payment Bond and Performance Bond
- Exhibit F: Letters of Intent

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THIS AGREEMENT FOR CONSTRUCTION AGENCY SERVICES FOR CRUISE PASSENGER TERMINAL 25 IMPROVEMENTS AT PORT EVERGLADES (this "**Agreement**") by and between BROWARD COUNTY, a political subdivision of the state of Florida ("**County**"), by and through its Board of County Commissioners,

AND

ROYAL CARIBBEAN CRUISES LTD., a Liberian corporation authorized to transact business in the state of Florida ("**RCL**").

RECITALS

WHEREAS, County owns and operates Port Everglades, a deep water port and appurtenant facilities in Broward County, Florida (the "**Port**"); and

WHEREAS, RCL is a leading international cruise company (with a number of cruise lines including Royal Caribbean International, Celebrity Cruises and Azamara Club Cruises) that presently uses the Port as a homeport, and RCL has experience in the development, construction and operation of cruise ship facilities; and

WHEREAS, in order to induce RCL to home port a minimum of one Celebrity Edge Class cruise ship ("**Edge Class Ships**") or equivalent at the Port, County has agreed to pay for the design, expansion and construction of improvements to Cruise Terminal 25 at the Port ("**Terminal 25**") to accommodate the Edge Class Ships, subject to the terms and conditions set forth in this

Agreement; and

WHEREAS, the Terminal 25 Project shall consist of certain construction improvements to Terminal 25 and affected ground transportation area improvements (“**GTA**”) based on the conceptual plans described as Option #2 in that certain “Renovation of Terminal 25 at Port Everglades- Programming Study- Final” dated January 15, 2016 (the “**Programming Study**”), prepared by Bermello & Ajamil (the “**Architect**”); and

WHEREAS, the County and RCL have entered into a non-binding Memorandum of Understanding dated March 14, 2017, which contemplated the negotiation of this Agreement and certain other matters set forth therein (the “**MOU**”); and

WHEREAS, contemporaneously with the execution and delivery of this Agreement, the County and RCL are entering into that certain Port Everglades Passenger Cruise Terminal and Berth User Agreement (the “**Berthing Agreement**”), which provides RCL with preferential use of Terminal 25, Cruise Terminal 18 and Cruise Terminal 29 at the Port in exchange for certain financial guarantees; and

WHEREAS, the County desires to contract with RCL to provide construction agency services for the construction of the Terminal 25 Project, and RCL desires to perform such services.

NOW THEREFORE, in consideration of the mutual covenants and agreements set for herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto intending to be legally bound, hereby agree to the following:

ARTICLE 1
DEFINED TERMS

As used in this Agreement, each of the following defined terms shall have the meaning set forth below and any capitalized term in this Agreement which is not defined in this Agreement, shall have the meaning set forth in the CMRA:

Amendment:	shall mean a written document executed by the Board and Construction Agent that modifies the terms, conditions, or requirements of the Agreement.
Architect:	shall have the meaning set forth in the Recitals.
Architect’s Agreement:	shall have the meaning set forth in <u>Section 3.4</u> .
Board:	shall mean The Broward County Board of County Commissioners.
Change Order:	shall mean a written document executed by the Construction

Agent and CMR, and approved by the Contract Administrator, in accordance with the procedures set forth in Exhibit E, that authorizes a change in the Plans and Specifications or an increase in the RGMP.

- Construction Agent:** shall mean RCL.
- Construction Agent's Allowance Account:** shall have the meaning set forth in the CMRA.
- Construction Agent Fee:** shall have the meaning set forth in Section 12.1.
- Construction Agreement or "CMRA":** Construction Agreement shall mean the Construction Agreement between Construction Agent, on behalf of the County, and the CMR for performance of the construction management portions of the Work with respect to the Project.
- Construction Manager at Risk, "CMR" or "Contractor":** shall mean the legal entity with which Construction Agent will contract to provide construction management services during the preconstruction and construction phases of the Terminal 25 Project at a GMP in accordance with the CMRA, and which is responsible for the acceptable performance of preconstruction and construction phases of the Terminal 25 Project and for the payment of all legal debts pertaining to the preconstruction and construction phases of the CMRA. All references in the Contract Documents to third parties under contract or control of CMR shall be deemed to be a reference to the CMR.
- Contract Administrator:** The Chief Executive/Port Director of the Port for the County or the County's designee. All parties may rely on the instructions or determinations made by the Contract Administrator, provided, however, that the Contract Administrator's instructions and determinations do not amend the terms of this Agreement or any of the other Contract Documents, except in the case of Change Orders approved by the Contract Administrator and the Construction Agent or as otherwise expressly provided in this Agreement.

Contract Documents:	shall mean all documents relating to the design, construction, testing, inspection and commissioning of the Project, specifically including, without limitation, this Agreement, the Architect's Agreement, the CMRA, the Plans and Specifications, Change Orders, and any acquisition contracts for equipment acquired, utilized and incorporated into the Project.
Contract Price Element Adjustment Memorandum ("CPEAM"):	shall mean a written document approved by the Contract Administrator and executed by Construction Agent and CMR, in accordance with the procedures set forth in <u>Exhibit E</u> , that authorizes the reallocation of money between various line items contained within the GMP, including the Construction Agent's Allowance Account (which is a component of the GMP as set forth in the CMRA).
Contract Time:	shall mean the time set forth in the Project Schedule for completion of the Project.
County:	shall have the meaning set forth in the Recitals.
County Business Enterprise ("CBE"):	shall mean a small business located in Broward County, Florida, which meets the criteria and eligibility requirements of Broward County's CBE Program and is certified by Broward County's Office of Economic and Small Business Development.
County's Work:	shall have the meaning set forth in <u>Section 3.5</u> .
Edge Class Ships:	shall have the meaning set forth in the Recitals.
Effective Date:	The effective date of this Agreement shall be the date of execution of this Agreement by the last party to sign.
Final Completion:	shall mean the date, as certified in writing by the CMR and Construction Agent in the final Application and Certificate for Payment, and as finally determined by the Contract Administrator in his or her reasonable discretion, upon which: (i) all conditions and requirements of the Contract Documents, permits and regulatory agencies have been satisfied with respect to the Work; (ii)

any and all documents required by the Contract Documents have been received by the County and Construction Agent; (iii) all required inspection and testing of the Work has been successfully passed; (iv) a certificate that, to the best of the Architect's and Construction Agent's knowledge, information and belief, all Work required for the Project has been fully completed in all material respects in accordance with the terms and conditions of the Contract Documents and it has passed all inspections, testing and commissioning by regulatory agencies (including CBP); and (v) all equipment and system manuals and guides, and all required warranties, have been turned over to Contract Administrator. A Final Certificate of Completion or Occupancy or other permit closures by the authority having jurisdiction must be issued for Final Completion to be achieved.

Final Completion Date: The date upon which the Final Completion occurs, as determined by the Contract Administrator and the Construction Agent.

Force Majeure: shall mean acts of God, acts of public enemy, acts of governmental authority, or any other circumstance beyond the reasonable control of either party that delays or prevents performance under this Agreement, including delays caused by the County in connection with its review and approval of matters in its regulatory capacity pursuant to this Agreement. A Force Majeure delay shall extend the Contract Time by the delay time due to such Force Majeure event. Either party desiring to rely upon a Force Majeure event as the cause of any delay or nonperformance shall, when the cause arises, give prompt written notice to the other party and, when the cause ceases to exist, shall give prompt written notice to the other party.

GMP: shall mean the Guaranteed Maximum Price contained within the CMRA for the performance of the construction management services by CMR on the Terminal 25 Project.

GTA: shall have the meaning set forth in the Recitals.

Guaranteed Maximum Price Amendment: shall have the meaning set forth in the CMRA.

- Harmful Substances:** shall have the meaning set forth in Section 3.6.
- Insurance Requirements:** shall mean in the insurance requirements set forth in Exhibit C.
- Limited Notice to Proceed:** shall mean the Limited Notice to Proceed entered into between Construction Agent and the highest ranked RFP bidder whereby the highest ranked bidder shall perform Pre-Construction Services while the CMRA is being negotiated.
- MOU:** shall have the meaning set forth in the Recitals.
- Parties:** shall mean the collective reference to the parties to this Agreement, and individually, a "Party."
- Plans and Specifications:** shall mean the plans and specifications prepared by the Architect for the Terminal 25 Project.
- Preconstruction Phase:** shall have the meaning set forth in the CMRA.
- Port:** shall have the meaning set forth in the Recitals.
- Programming Study:** shall have the meaning set forth in the Recitals.
- Project:** The term "Project" shall have the same meaning as the Terminal 25 Project.
- Project Area:** The area within the Port described as the Project Area on Exhibit B attached hereto.
- Project Budget:** shall mean the budget for the entire Terminal 25 Project. The initial Project Budget is attached to this Agreement as Exhibit A-1.
- Project Price:** shall mean the total not-to-exceed maximum price for the Terminal 25 Project, as set forth in Section 4.1.
- Project Schedule:** shall mean the predevelopment and construction schedule for the Project, as such schedule may be modified from time to time in accordance with the terms of the Agreement and the CMRA. The initial Project Schedule is attached to this Agreement as Exhibit A-2.
- Public Art:** shall mean the artwork created under The Public Art

and Design Program ("**Public Art Program**") established and codified in Section 1-88 of the Broward County Code of Ordinances, and applicable County Administrative Code provisions.

- Public Art Program:** shall have the meaning in the definition of "Public Art."
- Reconciled Guaranteed Maximum Price or "RGMP":** shall mean the Reconciled Guaranteed Maximum Price for the performance of the construction management services set forth in the CMRA.
- RFP:** shall mean the Request for Proposal issued by the Construction Agent in order to procure the CMR, in accordance with the procurement requirements set forth in Exhibit E.
- Scope of Services:** shall mean the document attached as Exhibit A of this Agreement, as may be changed by Amendment or Change Order to the CMRA.
- Substantial Completion:** shall mean the date, as certified in writing by the CMR and the Architect, and as finally determined by Construction Agent and the Contract Administrator in their respective reasonable discretion, that the Work is at a level of completion in substantial compliance with the Contract Documents and permits, such that the Work has passed inspection and testing by the applicable Governmental Authorities, and RCL is able to use Terminal 25 to receive, process and load and unload passengers, passenger luggage, staff, and supplies to cruise ships of an Edge Class Ship. A Temporary Certificate of Occupancy or Certificate of Occupancy by the authority having jurisdiction must be issued for Substantial Completion to be achieved; provided however, the date of issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy is not to be determinative of the achievement or date of Substantial Completion.
- Surety:** shall mean the entity which is bound by the performance bond and payment bond with and for the Contractor in accordance with Section 255.05, Florida Statutes. The required forms for the performance bond and the payment

- bond are attached as Exhibit E-3 to this Agreement.
- Terminal 25:** shall have the meaning set forth in the Recitals.
- Terminal 25 Project Account:** shall have the meaning set forth in Section 3.1.3.
- Terminal 25 Project:** shall mean the construction project involving renovations to Terminal 25 and the affected GTA, which is more particularly described on Exhibit A attached hereto.
- Third Party Contracts:** shall have the meaning set forth in Section 2.4.
- Work:** shall mean the totality of the obligations, including, but not limited to, preconstruction services, administration, procurement, materials, equipment, labor, construction and other services necessary for the CMR or its agents to fulfill the CMR's obligations under the CMRA.

The Parties agree that any additional terms, words and phrases used in this Agreement or in an Exhibit to this Agreement but not defined above shall have the meanings as defined in this Agreement below, or if not defined in this Addendum, shall have the meanings defined in the CMRA, or if not defined therein, shall have their usual and customary meanings.

ARTICLE 2
APPOINTMENT OF CONSTRUCTION AGENT AND OBLIGATIONS OF
CONSTRUCTION AGENT

2.1 Appointment. Subject to the terms and conditions set forth herein, the County hereby appoints Construction Agent to act as the County's exclusive agent to contract for, administer and oversee the construction and completion of the Terminal 25 Project, substantially in accordance with the Plans and Specifications, and the Construction Agent hereby irrevocably accepts the designation and appointment as Construction Agent.

2.2 Scope of Work by Construction Agent. Subject to the terms, conditions, restrictions and limitations set forth in the this Agreement, the County hereby expressly authorizes the Construction Agent, or any agent or contractor of the Construction Agent, and the Construction Agent unconditionally agrees, for the benefit of the County, to take all action necessary or desirable for the performance of the services of the Construction Agent described in Section 2 of the Scope of Work attached hereto as Exhibit A.

2.3 Exclusive Control of Terminal 25 Project. Subject to the terms and conditions of this Agreement, the Construction Agent shall, subject to substantial conformity with the Plans and Specifications, have sole management, control and responsibility for the construction, construction

means, methods, sequences and procedures, and the hiring, termination and contracting for and supervision of and payment for labor, personnel and services with respect to the construction of the Terminal 25 Project. Construction Agent acknowledges and agrees that, until such time as the County has taken possession of the Terminal 25 Project through the exercise of remedies under this Agreement or after the Final Completion Date of the Terminal 25 Project, as between the County and the Construction Agent, the Construction Agent will have at all times sole dominion over and control of Terminal 25 and the Project Area. The County shall turn over control of the Project Area to Construction Agent and the CMR in accordance with the delivery schedule contained with the Project Schedule. Upon delivery of all or a portion of the Project Area, Construction Agent shall have the responsibility to cause the installation of construction fencing to enclose the delivered portion of the Project Area and the engagement of a security firm and/or security personnel to provide security for the delivered portion of the Project Area.

2.4 Authority of Construction Agent. Construction Agent shall have the authority, on County's behalf, to oversee and direct the construction of the Terminal 25 Project, including but not limited to, approval of building, site and other plans, obtaining building and other permits, negotiating and executing the CMRA and other contracts, monitoring construction and making periodic inspections, approval of any CMR's invoice for payment, and submission of payment, all in accordance with the terms and conditions contained herein. Construction Agent, as County's agent, is hereby authorized on behalf of County to negotiate and execute, and shall execute on behalf of County, such construction and other contracts (including the CMRA) as may be required for the construction of Project (the CMRA and such other contracts being hereinafter called collectively, "**Third Party Contracts**", provided that in no event shall such term include subcontracts entered into by the CMR or any other Third Party Contractor). It is the intent of the Parties that all Third Party Contracts be entered into by Construction Agent as agent for the County. For the avoidance of doubt, to the extent that Construction Agent is not deemed, for any reason, to have been acting as agent for the County in connection with the execution of any Third Party Contracts, Construction Agent hereby irrevocably assigns to County all of the rights arising under and related to each and every Third Party Contract and all documents executed pursuant thereto, and County hereby expressly assumes and agrees to observe and perform its obligations under each such Third Party Contract executed by Construction Agent on behalf of County in accordance with this Agreement.

2.5 Covenants of Construction Agent. Construction Agent hereby covenants and agrees that with respect to the Terminal 25 Project it will:

- (i) provide the County with reasonable access to the Property and to all construction records in possession of the Construction Agent to the extent reasonably necessary to confirm compliance with this Agreement, during normal business hours, subject to reasonable safety requirements of the Construction Agent and its contractors, including the requirement that the County be accompanied by an authorized representative of the Construction Agent or its contractors;

- (ii) comply with the Insurance Requirements set forth in this Agreement in all material respects; and
- (iii) provide to the County, promptly upon receipt thereof, copies of all material written notices received by Construction Agent from any governmental authority with respect to the Project Area and/or the Project.

2.6 Extent of Responsibility. The Construction Agent shall exercise reasonable care in preparing schedules and estimates. The Construction Agent, however, does not warrant or guarantee estimates and schedules. The Construction Agent is not required to ascertain that the Plans and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Agent shall promptly report to the Architect and the County any material nonconformity discovered by or made known to the Construction Agent as a request for information in such form as the Architect may reasonably require. The Construction Agent shall not be required to fund any of the costs of the Work under this Agreement, the CMRA or any other Contract Documents, and all such costs shall be funded by the County.

ARTICLE 3 RESPONSIBILITIES OF THE COUNTY

3.1 Information and Services Required of the County.

3.1.1 The County shall provide to Construction Agent, on an ongoing basis during the Terminal 25 Project, all information and documentation (whether in paper and/or digital format) in the County's possession or control, with reasonable promptness, with respect to the Terminal Project, the existing improvements located on the Project Area and/or the Project Area.

3.1.2 Prior to the execution of the CMRA, the Construction Agent may request in writing that the County provide reasonable evidence that the County has made financial arrangements to fulfill the County's obligations under the CMRA. After the County furnishes the evidence, the County shall not vary such financial arrangements without prior approval of Construction Agent.

3.1.3 As of the Effective Date hereof, the County expressly represents and warrants to Construction Agent that the cost of the Project pursuant to this Agreement has been budgeted through the County's Port Everglades capital improvement budget process, and further, that the County's Port Everglades Department Enterprise Fund maintains sufficient funds to fully fund the Project Price under this Agreement. The County's Port Everglades Department has established a designated charge point for the costs of the Project which is solely designated for the Terminal 25 Project (the "**Terminal 25 Project Account**"). The County shall, upon written request of the Construction Agent, provide to Construction Agent all public records relating to, or otherwise concerning, the Terminal 25 Project Account. The County shall not make any disbursements from the Terminal 25 Project Account for any reason whatsoever, except to pay:

(a) the County's obligations under this Agreement with respect to the Project and (b) the GMP under the CMRA, in each case, without the prior written approval of Construction Agent.

3.1.4 To the extent required to complete the Project in accordance with the CMRA, the County will cooperate with the Construction Agent with respect to: (i) granting of easements, licenses, rights-of-way and other rights and privileges in the nature of easements reasonably necessary or desirable for the development, use, repair, or maintenance of the Terminal 25 Project, in each case, in form and substance acceptable to the County's designee, and (ii) releasing or modifying any document described in clause (i) of this sentence and of any existing easements or other rights and privileges in the nature of easements affecting any portion of the Project Area, in each case, in form and substance acceptable to the County's designee.

3.2 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the County shall furnish the information or services required by the County under the Architect Agreement or this Agreement with reasonable promptness. The County shall also furnish any other information or services under the County's control and relevant to the Construction Agent's performance of the Work with reasonable promptness after receiving the Construction Agent's written request for such information or services. The Construction Agent shall be entitled to rely on the accuracy of information and services furnished by the County but shall exercise proper precautions relating to the safe performance of the Work.

3.2.1 Within ten (10) days of the Effective Date, the County 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 surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths.

3.2.2 The County shall furnish tests, inspections and reports required by law and as otherwise agreed to by the Parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The County, when such services are required under the Architect Agreement, this Agreement and/or the CMRA, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

3.2.3 During the Construction Phase, the County shall furnish information or services required of the County by the Contract Documents with reasonable promptness. The County shall also furnish any other information or services under the County's control and

relevant to the Construction Agent's performance of the Work with reasonable promptness after receiving the Construction Agent's written request for such information or services.

3.3 Legal Requirements. The County shall furnish all legal, risk management and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the County's needs and interests.

3.4 Architect and Architect's Agreement. The County has retained the Architect to provide design services, duties and responsibilities as described in that certain Agreement between Broward County and Bermello, Ajamil & Partners, Inc. for Design & Engineering Services-Renovation of Terminal 25 at Port Everglades dated June 23, 2015, as amended by the Amendment to Architect's Agreement, dated as of May 2017 by and between the County and the Architect (as amended, the "**Architect's Agreement**"). The County has provided the Construction Agent a copy of the Architect's Agreement, and the County shall provide to the Construction Agent a copy of any further modifications to the agreement.

3.5. County's Work; Collaboration in Design Services and Preparation of Plans and Specifications. The County shall provide, and shall be obligated to provide, the design work to be performed by the Architect in connection with the preparation of the Plans and Specifications, the obligations of the County under this Agreement and the other Work with respect to the Project which is described in Section 3 of the Scope of Work which is attached hereto as **Exhibit A** attached hereto (collectively, the "**County's Work**") in accordance with the schedule for the delivery of such County's Work set forth in the Project Schedule. The County shall cause the Architect to collaborate and communicate with Construction Agent and the CMR during the design of the Terminal 25 Project and the preparation of the Plans and Specifications and the County agrees to cause the Architect to incorporate the commercially reasonable comments and suggestions of the Construction Agent and the CMR in the design of Terminal 25 and in the preparation of the Plans and Specifications. The County shall be responsible to cause the Architect to perform its obligations under the Architect Agreement, including, without limitation, the timely review, objection and/or approval of any requests for payment by the CMR or any other contractor providing services, labor or materials to the Project for payment by the County. In no event shall the costs to provide any of the County's Work be included in the Guaranteed Maximum Price set forth in the CMRA. The Construction Agent shall have no obligation to oversee or manage the performance by the County of the County's Work and the Construction Agent shall have no liability with respect to any of the County's Work.

3.6 Harmful Substances.

3.6.1 If the County, the Architect or any third party performing any test with respect to any portion of the Project Area encounters a Harmful Substance (hereinafter defined), then, the County shall advise the Construction Agent immediately and the County shall cause the applicable party which is performing such tests to stop such testing activities in the affected area until otherwise advised by the Construction Agent. If the Construction Agent encounters a Harmful Substance and if reasonable precautions will be inadequate to prevent foreseeable bodily

injury or death to persons resulting from such Harmful Substance encountered on the site by the CMR, the Construction Agent shall, upon being notified in writing of the condition, immediately instruct the CMR to stop Work in the affected area and report the condition to the County and Architect in writing.

3.6.2 The Construction Agent shall not be liable for any hazardous, toxic, or contaminated substances, chemicals, pollutants, or other material of any kind or description, including but not limited to asbestos or polychlorinated biphenyl, which may cause injury, sickness, or harm to persons or property (herein "**Harmful Substances**"). The sole exceptions to the foregoing exemption from Construction Agent's liability are Harmful Substances which the Construction Agent brought or brings onto the Project site or which the Construction Agent negligently generates from operations at the Project Site, to the extent such Harmful Substances were not required by the Contract Documents or were not the necessary by-product of Construction Agent's performance of Work in accordance with the Contract Documents. The Construction Agent is not in the business of and shall not be considered as a handler, generator, operator, treater, storer, transporter, or disposer of Harmful Substances. Except for the exceptions stated in this Section 3.6.2, the Construction Agent shall not be responsible for the identification, testing, handling, removal, treatment, storage, transportation, disposal and other activities related to Harmful Substances. The County shall either (i) authorize the transfer of funds from the Construction Agent's Allowance Account pursuant to a CPEAM or (ii) increase of the RGMP in accordance with the terms of this Agreement, for the costs for all delays and extra costs related in any way to Harmful Substances, including, without limitation, the shutdown, delay, disruption and start-up of the Construction Agent's or the CMR's operations for the Project, except to the extent proven to result from the negligence of Construction Agent or CMR.

3.6.3 Upon receipt of the County's written notice described in Section 3.6.1 or upon Construction Agent's discovery of any Harmful Substance described in Section 3.6.1, then, Construction Agent, at the County's expense, (i) shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Construction Agent and, (ii) in the event such material or substance is found to be present, shall obtain the services of third party environment firm(s) and other contractors to remediate such material or substance and/or cause it to be rendered harmless. When the material or substance in question has been remediated and/or rendered harmless by such third party firms and other contractors, then the Work in the affected area shall resume. By Change Order, the Contract Time shall be extended appropriately and the RGMP shall be increased in the amount of Construction Agent's and CMR's reasonable additional costs of shut-down, delay and start-up, unless sufficient funds are available in the Construction Agent's Allowance Account and sufficient funds from the Construction Agent's Allowance Account are paid to the CMR pursuant to a CPEAM which addresses such Harmful Substances.

3.6.4 The County acknowledges that the Construction Agent has not, and does not, assume the risk for any claims, damages or liabilities 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 3.6.1 and has not been rendered harmless; except

to the extent that such damages, loss or expense proven to be due to the negligence of the Construction Agent.

3.6.5 The County shall not be responsible under this Section 3.6 for materials or substances the Construction Agent brings to the site unless such materials or substances are required by the Contract Documents. The County shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Construction Agent's fault or negligence in the use and handling of such materials or substances. County shall reimburse RCL, CMR and their respective directors, officers, employees for all actual costs and expenses incurred by such parties arising from or due to the presence of any dangerous, toxic or hazardous material or other Harmful Substance in, on or under the Project Area prior to the date hereof.

3.6.6 If, without negligence on the part of the Construction Agent, the Construction Agent 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 County shall reimburse the Construction Agent for all cost and expense thereby incurred.

3.6.7 The obligations under this Section 3.6 shall survive the expiration or earlier termination of this Agreement for all purposes until the expiration of any applicable statute of limitations for any claim, demand, cause of action, or proceeding of any kind.

ARTICLE 4 PROJECT PRICE; PROJECT BUDGET AND PROJECT SCHEDULE

4.1 Project Price. The total costs and expenses to be incurred by the County in connection with the Terminal 25 Project, including all hard and soft costs, shall not exceed the sum of One Hundred Fourteen Million Five Hundred Thirty One Thousand Seven Hundred Six and 78/100 Dollars (\$114,531,706.78) (the "Project Price"). Any increase in the Project Price to be paid by the County shall require prior approval by the Board.

4.2 Project Budget. The Project Budget for the Project is attached hereto as Exhibit A-1. Any changes to the Project Budget (other than changes to the GMP) must be approved by the written consent of both the Construction Agent and the Contract Administrator. Any changes to the GMP shall be made in accordance with the approval procedure set forth in Article 11 of this Agreement. The County agrees to promptly advise Construction Agent in writing as the County obtains updated cost amounts for the components of the County's Work set forth on Exhibit A-1 attached hereto. The County shall promptly deliver to Construction Agent an updated Exhibit A-1 setting forth such updated cost amounts for the County's Work as such amounts are being finalized by the County (time being of the essence).

4.3 Project Schedule. The Project Schedule for the construction of the improvements to Terminal 25 and the completion of the Project, including, the County's Work, is attached hereto as Exhibit A-2. The Construction Agent shall have the exclusive right, power and authority to

initiate and/or approve any changes to the Project Schedule; provided that the Construction Agent provides prior written notice to the Contract Administrator of any such changes to the Project Schedule. In the event any proposed change to the Project Schedule affects the timing of the delivery of any portion of the County's Work, then, such change shall be subject to the commercially reasonable consent of the Contract Administrator. In the event Contract Administrator fails to approve or deny any request for the County's approval to the modification of the Project Schedule within five (5) days of the request, such proposed modification shall be deemed approved by the County for all purposes.

ARTICLE 5
COMPETITIVE SOLICITATION OF CMR

5.1 Procurement Requirements. Construction Agent, with the assistance of County's Port Everglades Department, shall prepare all contract documents and solicitation documents with respect to the Project consistent with this Agreement. Construction Agent shall engage the Construction Manager at Risk ("CMR") after such contractor has been selected pursuant to the competitive procurement requirements set forth on Exhibit E attached hereto. Construction Agent shall negotiate the terms and provisions of the Construction Agreement (the "CMRA") with the CMR, which agreement shall be in substantially the form which is attached hereto as Exhibit E-1. The Construction Agent may execute any of its duties under this Agreement by or through agents, contractors, employees or attorneys in fact. Construction Agent shall require the CMR to furnish a performance bond and payment bond using the forms attached as Exhibit E-3. Each bond shall be in the name of Construction Agent and County as dual obligees. Each bond shall be in the full amount of the RGMP.

ARTICLE 6
LIMITED NOTICE TO PROCEED; GMP

6.1 Limited Notice to Proceed – Preconstruction Phase Work by Highest Ranked Bidder. As soon as possible after the final ranking of the RFP bidders and prior to the execution and delivery of the CMRA, Construction Agent and the highest ranked RFP bidder shall negotiate, execute and deliver a Limited Notice to Proceed with respect to various services within the Preconstruction Phase of the Project as determined by Construction Agent and the highest ranked bidder, in substantially the form attached hereto as Exhibit E-2. County shall pay to highest ranked bidder the fees set forth in the Limited Notice to Proceed and such amount(s) shall be included in the GMP when the CMRA has been finalized and executed by the Construction Agent and the highest ranked bidder.

6.2 Agreement Regarding GMP and Substantial Completion Date.

6.2.1 After the selection of the CMR, Construction Agent and the CMR will negotiate, with input from the Contract Administrator or County's designee, the terms and provisions of the CMRA which shall include, among other things:

- (a) the amount of the GMP (which shall include the components described in the definition of GMP in the CMRA); and
- (b) Substantial Completion Date for the Terminal 25 Project shall occur no later than October 31, 2018, subject to Force Majeure and other permitted extensions set forth in the CMRA.

Upon the finalization of such negotiations but prior to the execution and delivery of the CMRA by Construction Agent and the CMR, Construction Agent shall deliver written notice to the Contract Administrator of the negotiated GMP and the Substantial Completion Date. So long as (i) the GMP does not exceed the GMP amount set forth in the Project Budget, and (ii) the Substantial Completion Date for the Terminal 25 Project is October 31, 2018 or earlier, the Construction Agent, on behalf of the County, shall have the right to execute and deliver the CMRA with the CMR.

6.3 Revisions to GMP and Substantial Completion Date. If in Construction Agent's estimation, the GMP or Substantial Completion Date cannot be accomplished within the requirements provided hereinabove, the Contract Administrator and Construction Agent shall meet to review the status of the proposals. The Contract Administrator and Construction Agent may mutually agree to recommend that the County, by its Board increase the Project Price if required to accommodate the increase in the GMP, reduce the scope of work, or otherwise modify the Project. If no agreement is reached to increase the GMP or reduce the scope of work, either Construction Agent or County, by its Board, shall have the right to terminate this Agreement upon written notice to the other within thirty (30) calendar days after the meeting between the Contract Administrator and Construction Agent, whereupon this Agreement shall terminate.

ARTICLE 7 INDEMNIFICATION AND INSURANCE

7.1 Indemnification by RCL. During the term of this Agreement and thereafter until the expiration of the applicable statute of limitations period has expired with respect to any claim, RCL shall (except for any wrongful, willful, wanton or intentional act or negligent act of County or its officers, directors, agents or employees), indemnify, hold harmless and at the Broward County Attorney's option, defend or pay for the reasonable fees of an attorney selected by the Broward County Attorney and consented to by RCL as provided for herein, to defend County, its officers, directors, agents, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including reasonable attorneys' fees, court costs, and expenses, caused by the negligence, recklessness or intentional wrongful misconduct of RCL, its employees, agents, or officers, accruing, resulting from, or related to RCL's services as the Construction Agent for the County as set forth in this Agreement; provided however that in no event shall the indemnification set forth in this Section 7.1 include or cover: (i) any of the obligations of the CMR under the CMRA, (ii) any of the obligations of the County for the County's Work, (iii) any obligations of the Architect under the Architect's Agreement and/or with respect to, or arising under, any of the Plans and Specifications, (iv) any claims of, or damages resulting from,

negligence, recklessness or intentional wrongful misconduct of the County or its officers, directors, agents or employees, and (v) any claims of, or damages for statutory violation or punitive damages.

7.2 Indemnification by County. During the term of this Agreement and thereafter until the expiration of the applicable statute of limitations period has expired with respect to any claim, the County shall (except for any wrongful, willful, wanton or intentional act or negligent act of RCL or its officers, directors, agents or employees), to the extent allowed by Florida law, indemnify, hold harmless and at RCL's option, defend or pay for the reasonable fees of an attorney selected by RCL and consented to by the County as provided for herein, to defend RCL, its officers, directors, agents, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including reasonable attorneys' fees, court costs, and expenses, (i) caused by the negligence, recklessness or intentional wrongful misconduct of the County, its employees, agents, or officers, accruing, resulting from, or related to RCL's services as the Construction Agent for the County as set forth in this Agreement and/or (ii) claimed by a third party against RCL with respect to any of RCL's services performed in the course and scope of RCL's obligations and services as Construction Agent for the County with respect to the Project, this Agreement and the other Contract Documents. Nothing in this Section 7.2 is intended to serve as a waiver of sovereign immunity by the County nor shall anything included in this Section 7.2 be construed as consent to be sued by third parties in any manner arising out of this Agreement or any other contract. The County is a political subdivision as defined in Section 768.28, Florida Statutes and shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

7.3 Limitation on Indemnification by RCL. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided under Section 7.1 shall not exceed the total amount of the Construction Agent Fee that is actually retained by RCL after the payment of all third party fees and expenses incurred by RCL in connection with RCL's services as the Construction Agent under this Agreement.

7.4 Procedure for Indemnification.

7.4.1 With respect to Section 7.1, RCL shall have the right to consent to the selection of indemnification counsel, which consent shall not be unreasonably withheld, from a list of special counsel approved by the Broward County Attorney's Office, or the services of the Broward County Attorney. RCL shall be required to respond to any request for selection of indemnification counsel within three (3) business days from the date of notification of suit. Failure to timely respond by RCL shall constitute a waiver of its right to consent. Other indemnification counsel not on the list of special counsel approved by the Broward County Attorney may be considered upon the mutual agreement of the Parties. RCL shall have the right to provide input and recommendations to indemnification counsel on any matter relating to the litigation including any proposed settlement. County agrees to provide RCL with prompt notice of any claim, demand or cause of action, and will cooperate with RCL as indemnification counsel may reasonably request.

7.4.2 With respect to Section 7.2, the County shall have the right to consent to the selection of indemnification counsel, from a list of attorneys approved by RCL. The County shall be required to respond to any request for selection of indemnification counsel within three (3) business days from the date of notification of suit. Failure to timely respond by the County shall constitute a waiver of its right to a consent. Other indemnification counsel not on the list approved by RCL may be considered upon the mutual agreement of the Parties. The County shall have the right to provide input and recommendations to indemnification counsel on any matter relating to the litigation including any proposed settlement. RCL agrees to provide the County with prompt notice of any claim, demand or cause of action, and will cooperate with the County as indemnification counsel may reasonably request.

7.5 Survival. The provisions of this Article 7 shall survive the expiration or earlier termination of this Agreement until the expiration of any applicable statute of limitations for any such claim, demand, cause of action, or proceeding of any kind.

7.6 Indemnification and Insurance Coverage by CMR. RCL shall require the CMR to indemnify the County and Construction Agent with respect to the Project and the CMRA and to provide Construction Agent and the County with evidence of the insurance coverage required for the Project as set forth in Exhibit C attached hereto.

ARTICLE 8
LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES,
AND LIQUIDATED DAMAGES

8.1 Mutual Waivers. County and RCL mutually disclaim, waive, and release any and all claims against each other for consequential, special and punitive damages of any kind (including, without limitation, attorneys' fees, court costs, and expenses) arising out of or related to the Terminal 25 Project or this Agreement, including, without limitation, damages for unabsorbed principal office expenses (including rent, taxes, insurance, and administrative salaries), and any loss of business, use, income, anticipated profits, financing, bonding capacity, and reputation.

8.2. Liquidated Damages. Nothing contained in this Agreement shall preclude Construction Agent from recovering liquidated damages from the CMR for Project delays caused by the CMR, and recovery of direct damages including the costs of repairing, replacing, or completing defective, or incomplete work under the CMRA. Construction Agent agrees to include in the CMRA a provision to the effect that, if the CMR shall fail to achieve Substantial Completion on or before the agreed upon deadline for Substantial Completion (as same may be extended for Force Majeure or as otherwise permitted under the CMRA), then the CMR shall be liable to Construction Agent for liquidated damages in an amount of not less than Five Thousand Dollars (\$5,000) per day (provided that the Parties acknowledge that such liquidated damages amount may exceed such per day amount). Further, the CMRA shall include a provision assessing liquidated damages in the amount of not less than One Thousand Five Hundred Dollars (\$1,500) per day (provided that the Parties acknowledge that such liquidated damages amount may exceed such per

day amount) if the CMR shall fail to achieve Final Completion on or before December 31, 2018 (as same may be extended for Force Majeure or as otherwise permitted under the CMRA). All liquidated damages payable by CMR shall be paid by CMR directly to the County.

ARTICLE 9
COUNTY OWNERSHIP OF PROJECT

9.1 Ownership by County. Ownership of, and title to, any and all fixtures, equipment, materials, and improvements installed in connection with the Project, shall automatically and immediately vest in the County when such items are paid for by the County in accordance with this Agreement, irrespective of whether any retainage withheld from such payment has been released.

9.2 Delivery of Documents, Reports and Studies. All finished and unfinished documents, including plans, drawings, manuals, photographs, studies, surveys and reports, and any and all tangible items of non-consumed equipment, materials, supplies, and furnishings purchased by Construction Agent and CMR, the costs of which have been paid by County as a direct cost, shall be turned over to the County on or before Final Completion of the Project or as soon as reasonably practicable thereafter.

ARTICLE 10
COOPERATION

10.1 Mutual Cooperation. Construction Agent and County agree to cooperate with each other and the CMR in connection with enabling performance of the services contemplated by this Agreement, including, but not limited to, granting to the CMR and Construction Agent, the right to come onto the County property (including the Project Area as set forth in Exhibit B attached hereto) as reasonably required in connection with performing the services (provided that said Parties shall comply with the security requirements of Port Everglades Department and RCL in connection therewith).

10.2 Cooperation. Additionally, the Parties will cooperate with each other to expedite completion of the Plans and Specifications for the Project based on input and recommendations. Upon completion of the Plans and Specifications, County shall assist the CMR to help to expedite issuance of the applicable governmental approvals to permit construction of the Project in accordance with such Plans and Specifications, including, but not limited to, applicable building permits. Without limiting the foregoing, the County, as the Owner of the Project Area, shall join in such governmental applications as reasonably necessary to obtain permits, licenses and other governmental approvals necessary for performance of the Work under this Agreement.

ARTICLE 11
CHANGES IN SCOPE OF WORK; CMRA OR RGMP

11.1 Changes to CMRA. RCL may request changes that would increase, decrease, or otherwise modify the scope of work set forth in the CMRA to be provided by the CMR or to otherwise modify the CMRA. Such changes must be contained in a Change Order. Subject to the limitations of the preceding sentences, costs of additional services contained in a written Change Order will be compensated in accordance with the terms and conditions of the CMRA.

11.1.1 Except as permitted by this Agreement and/or by the CMRA, any Change Order to modify the CMRA must be submitted by the CMR to the Construction Agent in writing and no Change Order shall be effective unless it is approved by the Contract Administrator in writing and executed by both Construction Agent and the CMR.

11.1.2 Any Change Order through the date in question which would increase the RGMP in the CMRA by less than \$500,000 in the aggregate (when combined with all prior Change Orders) must be executed by the CMR and Construction Agent and approved by the Contract Administrator, provided however, that any Change Order which would increase the RGMP by more than \$500,000 in the aggregate (when combined with all prior Change Orders) must be approved by the Board.

11.2 Additional Work. Subject to the limitations of Section 11.1, the costs of additional Work contained in a written Change Order will be compensated on an agreed upon lump sum amount to be negotiated by Construction Agent and the CMR.

11.3 CMRA Amendments, Change Orders and CPEAMs. All Amendments, Change Orders and CPEAMS shall be negotiated at a County facility, and in accordance with Florida's Sunshine Law.

ARTICLE 12
METHOD OF BILLING AND PAYMENT

12.1 Payments to RCL and the CMR. County shall pay RCL a lump sum not-to-exceed amount of One Million Five Hundred Thousand Dollars (\$1,500,000) as payment for Construction Agent's administrative, accounting and legal services ("**Construction Agent Fee**") with respect to its services as the "Construction Agent" for the County under this Agreement with respect to the Project. County shall pay RCL its Construction Agent Fee on a monthly basis commencing on the Effective Date, in eighteen (18) equal monthly installments of Eighty Three Thousand Three Hundred Thirty Three and 33/100 Dollars (\$83,333.33).

12.1.1 "**Application and Certificate for Payment**" or "**Application for Payment**" Construction Agent shall require the CMR to submit monthly Application for Payments to the Architect and the Construction Agent, unless another format is later reasonably required by the County. Construction Agent shall require that the

initial Application for Payment for the month in question shall be in unsigned draft "pencil format" in order that the County, Architect and the Construction Agent may review such proposed Application and communicate their respective comments, questions and revisions to the CMR in a timely manner. After receiving their timely comments, the CMR shall submit the revised Application for Payment for such time period. Exhibits, Timesheets, Certificates of Payment, or Schedule of Values may be required to include submittal of electronic copies using software specified by the Contract Administrator (and as approved by the appropriate County offices), as well as the number of hard copies required by the Contract Administrator. If required by the Contract Administrator, all costs must be classified and sorted based on the work breakdown structure (WBS) (i.e., cost accounting) provided by the Contract Administrator. When requested, and as applicable depending upon whether the particular costs involved are compensated on an hourly basis or as a lump sum, Construction Agent shall require the CMR to provide detailed backup for past and current pay requests that record actual hours, unit prices, salary costs, and expense costs on an item basis, and by employee category so that total hours and costs by item may be verified. These records must be made available to the Contract Administrator upon request. For each pay request, Construction Agent shall submit an original pay request and at least two copies (with all back-up) to the Contract Administrator. When requested by County, Construction Agent shall require CMR to submit certified payroll records for past and current pay requests.

- 12.1.2 County shall cause the Architect to timely review and approve any undisputed amounts in each Application for Payment within five (5) business days of receipt of such Application for Payment. Any disputed amount in an Application of Payment between the Architect and the Construction Agent shall be worked out between the two parties, and such discrepancy shall not delay the payment of the undisputed amount to the CMR by the County.
- 12.1.3 County, within ten (10) Business Days from receipt of Construction Agent's Application and Certificate for Payment, shall pay (i) the Construction Agent Fee, payable in equal monthly installments plus (ii) Construction Agent's outside legal counsel's costs necessary to (x) litigate disputes directly related to the Project or this Agreement (including arbitration hearings in connection with procurement protests), and (y) recover under any warranty claim and/or any insurance policy arising under this Agreement, the CMRA or in connection with the Project, not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) under this clause (ii) in the aggregate; provided, however, that any litigation costs incurred by Construction Agent against the County shall not be reimbursable. Construction Agent shall notify, and receive input from, the County regarding the status of any litigation by or against Construction Agent or RCL in connection with the Project, including submission of an estimated litigation budget and explanation of the merits of Construction Agent and/or RCL's legal position to the Contract Administrator and County Attorney's Office for review, analysis, and feedback. Outside legal counsel

costs incurred by Construction Agent in asserting any litigation claim or defense that is adjudged frivolous by a court of law shall not be reimbursed by the County.

- 12.1.4 County shall comply with the Florida Prompt Payment Act, Florida Statutes 255.0705-255.078 (as the same may be amended from time to time) with respect to all payments owing by the County under this Agreement and under the CMRA.
- 12.1.5 All Applications and Certificates for Payment produced by the CMR, shall include a partial release of lien(s) or consent of surety. All pay applications shall show a summary of salary costs and reimbursables with accrual of the total and credits for portions paid previously. External reimbursables and subcontractor's fees must be documented by copies of invoices or receipts which describe the nature of the expenses, and contain a project number and project title which clearly indicate the expense is identifiable to the Project. Subsequent additions of the identifier to the invoice or receipt by CMR are not acceptable, and the CMR must be required to resubmit such invoices or receipts in compliance with this subsection.
- 12.1.6 County shall pay one hundred percent (100%) of all soft costs for the Project, including the expenses for the County's Architect, in accordance with the terms of the Architect's Agreement.
- 12.1.7 Notwithstanding any provision of this Agreement to the contrary, the CMR shall not be entitled to payment of any statement unless the Contract Administrator is reasonably satisfied that the statement reflects a level of effort and stage of completion of the respective deliverables that is in accordance with the Project Schedule.
- 12.1.8 Payments will be made by County to Construction Agent and the CMR via electronic transfer of funds wiring instructions to be provided by Construction Agent to County. Prior to the first wiring of funds under this Agreement, Construction Agent shall provide the Contract Administrator with a reference number to accompany each wiring of funds, and the County shall use such reference number in each wire transaction.
- 12.1.9 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part (as applicable), payment to the extent necessary to protect itself from loss on account of inadequate or defective services which have not been remedied, or from loss due to fraud or reasonable evidence indicating fraud by Construction Agent or the CMR, or failure by Agent to comply with the terms and conditions of this Agreement. When the above reasons for withholding payment are removed or resolved in a manner reasonably satisfactory to Contract Administrator, payment shall be made. The amount withheld shall not be subject to payment of interest by County.

- 12.1.10 County agrees to assist Construction Agent in an effort to mitigate taxes in connection with the construction of the Project, including providing sales tax exemption letters and other documentation reasonably required by the contractors, suppliers and materialmen in connection with the construction of the Project, to the extent legally permissible.

ARTICLE 13

COUNTY BUSINESS ENTERPRISE PROGRAM ("CBE") COMPLIANCE

13.1 The CBE Program, which is implemented under the Broward County Business Opportunity Act of 2012 (Broward County Ordinance No. 2012-33, as may be amended from time to time), referred to as the "Act", provides for the establishment and implementation of CBE participation goals and initiatives. In contracting for this Project, Construction Agent agrees to require the CMR to comply with all applicable requirements of the CBE Program in the award and administration of the CMRA. Construction Agent shall expressly provide in the CMRA that failure by the CMR to carry out any of the CBE Program requirements shall constitute a material breach of the CMRA. Construction Agent acknowledges that the Board, acting by and through the Director of the Broward County Office of Economic and Small Business Development ("OESBD"), may make minor administrative modifications to the CBE Program which shall become applicable to the CMRA if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided by County to Construction Agent.

13.2 The CBE participation goal established by OESBD for the Project is twenty eight percent (28.0%). Construction Agent shall require CMR to commit to achieving this CBE participation goal for the Project. County and Construction Agent agree that subcontract awards to CBE firms are crucial to the achievement of the Project's CBE participation goal. Construction Agent shall require CMR to provide that each CBE firm utilized on the Project to meet the participation goal, is certified by OESBD. In an effort to assist the County in achieving its established goal for the Project, Construction Agent shall require CMR to make good faith efforts to meet the committed CBE participation goal, and require CMR to fill out CBE Utilization Reports and obtain letters of interest in the forms attached hereto as Exhibit D and Exhibit F respectively.

ARTICLE 14

TERM OF THIS AGREEMENT AND TERMINATION

14.1 Term of this Agreement. The term of this Agreement shall commence on the Effective Date and shall continue until the Final Completion of the Project under the CMRA unless terminated pursuant to the terms of this Article 14; provided however the terms of this Agreement shall continue in effect following termination or the expiration of the term of this Agreement with respect to (i) the enforcement of the indemnification obligations of the Parties until the expiration of the applicable statute of limitation periods for the indemnification obligations set forth in this Agreement, and (ii) the enforcement of warranty claims under the CMRA.

14.2 Termination for Cause. In addition to the termination rights set forth herein, this Agreement may be terminated “for cause” by action of County or by RCL if the Party in material breach (whether such breaching Party is the County or RCL) has not corrected the material breach within twenty (20) calendar days' written notice from the aggrieved Party identifying the material breach, or, with respect to any nonmonetary material breach not reasonably capable of being cured within such time, if the Party in material breach fails to commence cure within ten (10) calendar days' written notice from the aggrieved Party identifying the material breach and diligently pursue such cure to competition (in each case, the “Cure Period”). Termination of this Agreement “for cause” shall include, but not be limited to, negligent, intentional, or repeated submission for payment of materially false or incorrect bills or invoices, failure to make payment due under this Agreement when due, or failure by a Party to continuously perform its material obligations set forth in this Agreement. This Agreement may also be terminated for cause if RCL is placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time, or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists as provided in Section 215.473, Florida Statutes, as amended from time to time).

14.3 Notice of Termination. Notice of termination under this Article 14 shall be provided in accordance with Article 19, except that notice of termination by Contract Administrator where he or she reasonably and in good faith deems necessary to protect the public health, safety, or welfare may be by verbal notice which shall be confirmed in writing within forty eight (48) hours.

14.4 Notice to CMR of Termination for Cause. The Parties agree that the CMRA may not be terminated “for cause” unless the CMR has materially breached the CMRA as set forth in the CMRA. Upon being notified of County's election to terminate for cause this Agreement and the CMRA based upon the existence of “cause” under both this Agreement and under the CMRA, then, RCL shall notify the CMR that the County has terminated the CMRA and advise the CMR to cease from performing further services or incurring additional expenses under the terms of the CMRA with Construction Agent, except for the reasonably necessary services and expenses to secure the Project.

14.5 Assignment/Termination of CMRA. RCL agrees that upon any termination of this Agreement for any reason, County may elect one of the following:

- 14.5.1 Upon written notification by County to RCL, RCL will cause the assignment of the CMRA to County, and such contract shall contain a provision requiring the CMR to accept such assignment and to continue to be bound by the terms of its contract; or
- 14.5.2 If County desires to utilize other entities to complete the Project, then the CMRA shall terminate on such date as is specified in the County's written notice to that effect, and such contract shall contain a provision requiring its termination in such event.

14.5.3 The Parties hereby acknowledge and agree, that in all cases where this Agreement is terminated and/or other agreement is assigned to the County as set forth herein, RCL shall be released of all further obligations under this Agreement and under such other agreement that is assigned by RCL to the County for events occurring post-assignment.

14.6 Remedies. In the event of a material breach by either the County or RCL under this Agreement, which material breach is not cured within the Cure Period or in the event of a termination without cause, then, in addition to the remedies set forth in this Article, the Parties shall be entitled to any and all remedies available at law or in equity with respect to such material breach or termination without cause; provided, however, that such remedies for damages shall be limited to direct damages and shall be subject to Section 8.1 of this Agreement.

ARTICLE 15 AUDIT RIGHT AND RETENTION OF RECORDS

15.1 County shall have the right to audit the books, records, and accounts of Construction Agent and its contractors and subcontractors that are related to this Agreement. Construction Agent and its contractors and subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance thereunder. All books, records, and accounts of Construction Agent and its contractors and subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Construction Agent or its contractor or subcontractor, as applicable, shall make same available at no cost to County in written form.

15.2 Construction Agent and its contractors and subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Construction Agent's place of business, if deemed appropriate by County, with ten (10) business days advance notice.

15.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by Construction Agent in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to the County by Construction Agent in addition to making adjustments for the overcharges. Any adjustments and/or

payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Construction Agent.

15.4 Construction Agent shall include that the requirements of this Section in the CMRA and shall require the CMR to include the requirements of this Section in all material agreements with the CMR's contractor(s) and subcontractor(s).

ARTICLE 16
DISCRIMINATORY VENDOR AND SCRUTINIZED COMPANIES LIST

16.1 By execution of this Agreement, RCL represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time), or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists (as provided in Section 215.473, Florida Statutes, as amended from time to time). County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement.

ARTICLE 17
PUBLIC ENTITY CRIMES ACT

17.1 RCL represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person, or affiliate who is a contractor, or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to County, may not submit a bid on a contract with County for the construction or repair of a public building or public services, may not submit bids on leases of real property to County, may not be awarded or perform services as a contractor, supplier or subcontractor under a contract with County, and may not transact any business with County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this article shall result in termination of this Agreement.

17.2 In addition to the foregoing, RCL further represents that, to RCL's knowledge, there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a public entity crime and that it has not been formally charged with committing an act defined as a public entity crime regardless of the amount of money involved or whether RCL has been placed on the convicted vendor list.

ARTICLE 18
NO CONTINGENT FEE

18.1 RCL warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for RCL, to solicit or secure this Agreement (other than to assist in the negotiation of this Agreement), and that it has not paid or agreed to pay any person,

company, corporation, individual or firm, other than a bona fide employee working solely for RCL any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, County shall have the right to terminate this Agreement, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

ARTICLE 19
REPRESENTATIVES OF COUNTY AND RCL – NOTICES

19.1 County's Representative. The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Contract Administrator shall inform RCL in writing of the County's representative to whom matters involving the conduct of the Project shall be addressed.

19.2 RCL Representative. RCL shall inform the Contract Administrator in writing of RCL's representative to whom matters involving the conduct of the Project shall be addressed. RCL may replace such representative by sending written notice of such replacement to the Contract Administrator.

19.3 Notices. Whenever either party desires to give notice to the other with respect to any matter related to this Agreement, such notice must be in writing, sent by email and certified United States Mail, postage prepaid, return receipt requested, or by reliable overnight courier, addressed to the Party for whom it is intended at the place last specified. The place for giving notice shall remain such until changed in writing in compliance with the provisions of this article. For the present, the Parties designate the following as the respective places for giving of notice:

For Broward County:

Steven M. Cernak, Chief Executive/Port Director
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316

For RCL:

Royal Caribbean Cruises Ltd.
1050 Caribbean Way
Miami, Florida 33132
Attn: Mr. Michael Jones
SVP, Supply Chain, Travel, Port Services and Workplace Solutions

With a copy to: General Counsel

ARTICLE 20

NO CONFLICTS

20.1 The directors and executive officers of RCL shall not, until the Project is complete, serve as an expert witness against County in any legal or administrative proceeding in which they are not a party, unless compelled by court process or unless RCL is involved in such proceeding. Further, RCL agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of their expert opinion, which is adverse or prejudicial to the interests of County or in connection with any such pending or threatened legal or administrative proceeding unless compelled by course process or unless RCL is involved in such proceeding. The limitations of this Article shall not preclude such persons from representing or testifying for themselves or RCL in any action or in any administrative or legal proceeding.

20.2 The directors and executive officers of RCL shall not perform consulting services or provide legal services that would in any way be in conflict with the Project or detrimental to the Project, or for any municipality, developer, tenant or landowner developing or having property within the seaport boundaries, including, such additional property that may need to be acquired to implement the Port Everglades Master/Vision Plan as updated. At least ten (10) calendar days prior to undertaking any services for any of the listed entities, the Contract Administrator shall be provided with a written description of the contemplated services, and the Contract Administrator shall promptly advise as to whether such services would be detrimental to the Project or in conflict therewith.

20.3 Notwithstanding the above, none of the provisions of this Article shall restrict in any way any officer or director of RCL from acting as required by judicial process or from acting on behalf of RCL in any legal or arbitration proceeding in which RCL is involved pertaining to any agreement between the County and RCL as of the Effective Date hereof.

ARTICLE 21 INDEPENDENT CONTRACTOR; THIRD PARTY BENEFICIARIES; NO JOINT RELATIONSHIP

21.1 RCL is an independent contractor of the County. Services provided by RCL shall be subject to the supervision of RCL. In providing the services, RCL or its agents shall be acting and shall be deemed as acting as an agent of the County expressly with respect to the services set forth in, or contemplated by, this Agreement.

21.2 The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Neither RCL nor County intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree, that there are no third party beneficiaries to this Agreement, and that no third party shall be entitled to assert a right or a claim against either of them based upon this Agreement.

21.3 This Agreement shall not constitute or make the Parties a partnership or joint

venture or create any other joint relationship.

ARTICLE 22
COMPLIANCE WITH LAWS

22.1 Subject to Section 2.6 of this Agreement, Construction Agent shall keep fully informed of all federal, state, County and local laws, ordinances, codes, rules, and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, affect the work, the Project or services authorized under the terms of this Agreement, and shall further take into account all known pending changes to the foregoing. Subject to Section 2.6 of this Agreement, Construction Agent shall at all times observe and comply with all such laws, ordinances, codes, rules, regulations, orders, and decrees in performing its duties, responsibilities, and obligations related to this Agreement.

ARTICLE 23
SEVERABILITY; WAIVER OF BREACH, TIME AND MATERIALITY

23.1 In the event any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Agreement shall continue to be effective.

23.2 Failure by either Party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

23.3 Each reference to a "day" or "days" in this Agreement shall mean "calendar days" unless this Agreement expressly provide for "business days."

23.4 County and RCL agree that each requirement, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

ARTICLE 24
JOINT PREPARATION

24.1 Joint Preparation. The Parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

ARTICLE 25

PRIORITY OF PROVISIONS AND SEPARATE AGREEMENTS

25.1 Conflict. Except as hereinafter provided, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached to this Agreement, and any document or events referred to in this Agreement, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 30 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 30 of this Agreement shall prevail and be given effect.

25.2 Berth User Agreement. Notwithstanding anything contained herein to the contrary, it is the intention and agreement of RCL and the County that any material breach by either the County or RCL pursuant to this Agreement shall not affect in any way the terms and provisions of the Port Everglades Cruise Passenger Terminal and Berth User Agreement. No such breach of this Agreement shall constitute a material breach under the Port Everglades Cruise Passenger Terminal and Berth User Agreement, or otherwise affect the rights, obligations and benefits of either the County or RCL under the Port Everglades Cruise Passenger Terminal and Berth User Agreement.

ARTICLE 26 ALL PRIOR AGREEMENTS SUPERSEDED

26.1 Entire Agreement. This Agreement, as amended, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter that are not contained in this Agreement. Accordingly, the Parties agree that no deviation from the terms of this Agreement shall be predicated upon the MOU or upon any prior representations or agreements, whether oral or written.

ARTICLE 27 AMENDMENTS

27.1 Amendments. No modification, amendment, addendum, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared and executed with the same formality as this Agreement by the County and RCL.

ARTICLE 28 JURISDICTION, APPLICABLE LAW VENUE, WAIVER OF JURY TRIAL

28.1 The Parties hereby irrevocably submit to the jurisdiction of Florida's state or federal courts in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agree that all claims in respect to such action or proceeding shall be heard and determined in Broward County, Florida, the venue site. The Parties agree that this Agreement shall be construed and interpreted according to the laws of the state of Florida. **TO**

ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION THAT MAY ARISE UNDER THIS AGREEMENT, THE PARTIES HEREBY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY OF ANY SUCH LITIGATION.

ARTICLE 29
MULTIPLE ORIGINALS

29.1 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

ARTICLE 30
ADDITIONAL MISCELLANEOUS PROVISIONS

30.1 Opt Out of Florida Statute Chapter 558. The parties acknowledge and agree that the Project is a public transportation project therefore the parties agree that Chapter 558 shall not apply to this Agreement, the Contract Documents, or the Project. FOR THE AVOIDANCE OF DOUBT, EACH OF THE COUNTY AND RCL EXPRESSLY AGREE TO OPT OUT OF THE REQUIREMENTS OF SECTION 558.001 -558.005. ACCORDINGLY, THE COUNTY AND RCL ACKNOWLEDGE AND AGREE THAT SUCH FLORIDA STATUTES SECTION 558.001 -558.005 SHALL NOT APPLY TO THE WORK, THE PROJECT OR THE CONTRACT DOCUMENTS FOR ALL PURPOSES.

30.2 Anti-Bribery. Each of the County and RCL represents, warrants and agrees with the other Party that it: (a) will comply with all anti-corruption laws applicable to its business operations; (b) has not and will not offer, promise, give or authorize the payment of anything of value (e.g. cash or cash equivalents, gifts, travel and entertainment, stock, offers of employment, etc.), directly or indirectly, to any Government Official (hereinafter defined) with the intention of inducing him or her to engage in improper or unlawful conduct or to secure an improper business advantage; (c) has not and will not make facilitation payments or "grease payments" to Government Officials or others in a position of authority to expedite routine non-discretionary government or lawful actions (e.g. processing permits, visas and licenses, scheduling inspections, clearing customs, etc.); and (d) has not and will not offer, promise, give, request, receive or accept anything of value, directly or indirectly, to or from any person for the purpose of influencing, inducing or rewarding the improper performance of an act or decision. For purposes of this clause, the term "Government Official" means any (a) officer or employee of government, department, agency, or instrumentality of a government (government-controlled enterprise); (b) officer or employee of a public international organization; (c) political party or party official; (d) candidate for political office; or (e) other person acting in an official capacity. The County and RCL agree that failure to comply with this section will constitute a material breach of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the ___ day of June, 2017, ROYAL CARIBBEAN CRUISES LTD., signing by and through its _____, duly authorized to execute same.

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor

____ day of June, 2017

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404
Telecopier: (954) 468-3690

By: *[Signature]* 5/31/17
Signature (Date)

By: *[Signature]* 5/31/17
Russell J. Morrison (Date)
Senior Assistant County Attorney

CARLOS DE LA GUERRA
RISK MANAGEMENT & CONT
BUSINESS ADMINISTRATION DIVISION
PORT EVERGLADES

ROYAL CARIBBEAN CRUISES LTD., a
Liberian corporation authorized to transact
business in the state of Florida

ATTEST:

[Signature]
Corporate Secretary

By: *[Signature]*
Mr. Michael Jones
SVP, Supply Chain, Travel, Port Services
and Workplace Solutions

Bradley Stein
Print Name

____ day of June, 2017.

(CORPORATE SEAL)



EXHIBIT A

SCOPE OF SERVICES/PROJECT DESCRIPTION

1. **Cruise Passenger Terminal 25 Project.** The Terminal 25 Project involves the design, and construction of expansion/renovation to Cruise Passenger Terminal 25, and affected ground transportation areas.

The Project location is on the peninsula at Midport at Broward County's Port Everglades. Project consists of demolishing Terminals 22/24 and building 21A to make room for an expansion to Terminal 25 to the north of where the current Terminal 25 ends. Building 21A houses a cooling tower, chillers, pumps, piping and accessories, electrical distribution panels and FP&L vault providing electrical power to Terminals 21 and 22/24, an emergency generator serving life safety system in Terminal 21 and an ice storage facility no longer in use. Construct a replacement to the FP&L vault, the electrical distribution panels and a replacement to the life safety emergency electrical generator serving Terminal 21 prior to demolition in order to allow for the uninterrupted and continuous use of Terminal 21, construct HVAC replacement equipment to provide for cooling removed.

Enhance the Terminal 25 curbside frontage in order to optimize the ground transportation area. The intent is to provide more efficient baggage drop off during embarkation and quicker passenger loading during debarkation.

Construct an expanded ground transportation area north of the expanded Terminal 25, and existing Terminal 21, in the area where Terminals 22/24 is demolished. Provide weather protection canopies for passengers and their bags.

Construct parallel concrete runways for mobile elevated gangways ("MEGs") to move north and south on. Pile foundations will be necessary. Remove the existing passenger loading bridges and return them to Broward County's Port Everglades Department.

Add mooring bollards located where vessels berthing at Terminal 25 can tie up to without interfering with dock side ship services. Look at existing fendering system and confirm they are acceptable and usable by ships berthing at Terminal 25. Recommend alternate fendering systems if the existing system is not acceptable or usable.

Terminal 25 expansion shall be as follows. Ground floor expansion is anticipated to be approximately 25,000 square feet, to provide for spaces to operate Federal Inspection Services ("FIS")/Customs and Border Protection ("CBP"), baggage screening, vertical circulation and the main entrance two story lobby for embarking passengers. Renovate the entire ground floor of the existing Terminal's approximate 43,000 square feet into baggage laydown on the south side, FIS/CBP primary and additional vertical circulation in the balance of the space. Second floor north side expansion will be approximately 19,000 square feet with vertical circulation from the entrance lobby, security screening, restrooms,

cruise line offices, security offices and passenger waiting guided by stations. On the south side, remove the existing building roof, raise the building's roof carrying structure, construct a second floor extending from the existing second floor to the new second floor and construct a new higher roof. The new second floor infill will be of approximately 34,000 square feet. The new infill will provide for passenger check-in counters, pre-boarding passenger seating and vertical circulation.

The above described scope is graphically depicted in the Programming Study, pages 28 thru 33.

Optional Construction Services

In addition to the basic scope of work described hereinabove, County may elect, due to the new ground transportation area for Terminal 25, proposed to be located to the north of the north end of Terminal 25, modify the ground floor of the existing Midport Parking Garage in order to turn that level into the ground transportation area of Terminal 21, therefore providing Terminal 21 with its own ground transportation area. Eliminate the ground level to second floor ramp inside the garage and construct a new ramp outside the garage to access the second floor, construct a baggage X-ray and forklift storage area on the northeast corner of the garage on the ground floor.

County may elect that the above optional construction services be performed by Construction Agent on or before the deadline set forth in the Project Schedule.

2. **Services of RCL.** RCL, in its capacity as the Construction Agent for the County, shall undertake the following Services on behalf of the County:
 - a. RCL shall procure a Construction Manager at Risk ("CMR"), negotiate, execute and deliver the CMRA with the CMR and oversee the construction of the Project and obtain all permits and approvals from applicable Governmental Authorities to permit the CMR to perform the Work contemplated by the CMRA.
 - b. The Architect for the Project will submit to RCL and County for their respective review and approval of Design Development Plans in accordance with the Project Schedule, fifty percent (50%), ninety percent (90%), and one hundred percent (100%) design plans for the Project. RCL shall be responsible for processing all Notices to Proceed to the CMR. All Change Order and Contract Price Element Adjustment Memo(s) ("CPEAM") requests shall be submitted to the Contract Administrator for review and approval. Change Order and CPEAM's requests shall detail the costs, back-up materials, such as all applicable quotes for supplies and services, and justification or cause for requested changes. Prior to submission to the Contract Administrator, all Change Orders and CPEAM's shall be signed and certified as accurate, true and correct by RCL, the Architect, and the CMR.

- c. RCL shall cause the CMR to warrant to RCL and to County that all materials and equipment furnished under the CMRA will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects and in conformance with the terms of the CMRA. The warranty for materials and equipment will be for a period of one (1) year beginning at the issuance of the certificate of Substantial Completion. In addition, the CMRA shall provide that the CMR shall assign to the County all manufacturer's warranties with respect to any portion of the Project.
 - d. Progress payments under the CMRA shall be submitted once each month for approval and payment by County's Port Everglades Department. Each Application and Certificate for Payment shall be signed and certified as accurate, true and correct by RCL, the CMR, and the Architect, and shall detail all the information as required by this Agreement. The CMR shall provide partial releases of liens and consent of Surety with each of its monthly pay application.
 - e. When Substantial Completion of the Project is reached, RCL shall have the CMR submit a request for a certificate of Substantial Completion to the Contract Administrator which shall state that Substantial Completion has been reached. The Contract Administrator and the Architect shall then review the Project status for concurrence and approval.
 - f. When Final Completion is reached, RCL shall have the CMR submit a request for a certificate of Final Completion to the Contract Administrator and the Architect which shall state that Final Completion has been reached. The Contract Administrator and the Architect shall then review the Project status for concurrence and approval.
3. **County's Work.** The County shall undertake the following Services and the costs of such Services shall not be included in the RGMP :
- a. County has engaged the Architect pursuant to the terms of the Architect Agreement and County shall be responsible to oversee the services of the Architect and to cause the Architect to complete the Architect's professional design services with respect to Terminal 25 and to finalize the Plans and Specifications, in each case, in accordance with the Project Schedule.
 - b. County shall engage the Architect and/or other third party professionals to perform soil tests, environmental hazardous substance tests and other soil and water tests(collectively, the "Tests") required by law, Construction Agent and the CMR with respect to the Project Area. County shall cause the Tests to be conducted and shall cause the written results of such Tests (in paper and digital format) to be delivered to Construction Agent and the CMR in accordance with the Project Schedule for such Tests.

- c. County shall collaborate with RCL to design and select the appropriate MEGs to service the Edge Class Ships and other cruise ship configurations that are to be berthed in Terminal 25, after an analysis of such ship's shell doors and passenger entry and exit points to such ship (which MEGs shall be subject to the commercially reasonable approval of RCL), to purchase and install such MEGs in Terminal 25 in accordance with the Project Schedule. CMR shall construct the concrete runways for the MEGs to move north and south on with respect to the ship and the required pile foundations for the MEGs. CMR shall also remove the existing passenger loading bridges and return them to Broward County's Port Everglades Department.
- d. County shall cause the Architect to review and evaluate the existing fendering system(s) at Terminal 25 and confirm that the existing fendering system(s) are acceptable and usable by Edge Class Ships berthing at Terminal 25 in accordance with the Project Schedule. If such existing fendering system(s) are not acceptable and usable by Edge Class Ships and other cruise ship configurations that are to be berthed in Terminal 25, then, County shall cause the Architect to recommend the alternate fendering systems for Terminal 25 in accordance with the Project Schedule. CMR shall install the recommended fendering systems. CMR shall also install mooring bollards located where vessels berthing at Terminal 25 may use to secure the ship without interfering with dock side ship services.
- e. County shall purchase, select, and install the Public Art in the Terminal 25 Project in compliance with the Public Art Program and in accordance with the Project Schedule.

[Remainder of page intentionally left blank]

EXHIBIT A-1
PROJECT BUDGET

Terminal 25 Expansion Project Budget:**Base Budget:**

Demo, site, reno, infill, addition, foundations, fendering, bollards	\$51,670,860.00	
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Scope Additions:

Branding, Entry Plaza, Ext Concourse, Baggage Annex, T21 Canopy	\$10,576,000.00	
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Additional Costs:

Environmental	\$1,684,076.00	
FF&E	\$3,000,000.00	
Technology	\$1,250,000.00	
		\$5,934,076.00

Optional:

Midport Garage	\$6,373,418.00	
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SUBTOTAL without escalation		\$74,554,354.00
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Escalation:

Calculated at 3%	\$2,236,630.62	\$2,236,630.62
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SUBTOTAL Construction		\$ 76,790,984.62
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Contingency:

Design at 15%	\$11,518,647.69	
Construction at 10%	\$7,679,098.46	
	\$19,197,746.16	\$19,197,746.16

TOTAL Construction		\$ 95,988,730.78
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County

Design Costs/B&A	\$7,505,705.00	
Gangways	\$6,400,000.00	
Art	\$700,000.00	
Design MPG cost	\$375,000.00	
	\$14,980,705.00	
County Contingency at 10%	\$1,412,271.00	
Atkins/County Staff	\$400,000.00	
	\$400,000.00	\$16,792,976.00

RCCL Costs

Liability	\$1,500,000	\$1,750,000
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GRAND TOTAL		\$114,531,706.78
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EXHIBIT A-2
PROJECT SCHEDULE

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	ber 1
1		Terminal Building & GTA	405 days?	Mon 4/3/17	Fri 10/19/18		
2		DRC	37 days	Fri 4/28/17	Mon 6/19/17		
3		Initial Meeting	1 day	Fri 4/28/17	Fri 4/28/17		
4		Design Submission	20 days	Mon 5/22/17	Fri 6/16/17	10	
5		Presentation	1 day	Mon 6/19/17	Mon 6/19/17	4	
6		Design	155 days	Mon 4/3/17	Fri 11/3/17		
7		Schematic Design	35 days	Mon 4/3/17	Fri 5/19/17		
8		Schematic Design update	30 days	Mon 4/3/17	Fri 5/12/17		
9		Budget Impact Analysis	5 days	Mon 5/8/17	Fri 5/12/17		
10		RCL/Port Review and NTP	5 days	Mon 5/15/17	Fri 5/19/17	8	
11		Design Development	35 days	Mon 5/22/17	Fri 7/7/17		
12		50% DD's	10 days	Mon 5/22/17	Fri 6/2/17	10	
13		Exterior Finish & Equip. Selections	15 days	Mon 5/22/17	Fri 6/9/17	10	
14		Validate intent of Art in Public Places	0 days	Wed 6/14/17	Wed 6/14/17		
15		RCCL/Port Review and NTP	5 days	Mon 6/5/17	Fri 6/9/17	12	
16		100% DD's	15 days	Mon 6/12/17	Fri 6/30/17	15	
17		RCCL/Port Review and NTP	5 days	Mon 7/3/17	Fri 7/7/17	16	
18		Construction Documents	120 days	Mon 5/22/17	Fri 11/3/17		
19		Core & Shell, Site & Long Lead Package	35 days	Mon 7/10/17	Fri 8/25/17		
20		50% CD's	15 days	Mon 7/10/17	Fri 7/28/17	17	
21		Specification	5 days	Mon 7/31/17	Fri 8/4/17	20	
22		Validate intent of Art in Public Places	0 days	Tue 8/8/17	Tue 8/8/17	20FS+7 days	
23		RCCL/Port Review - Concurrent w/ 90% CD's	5 days	Mon 8/7/17	Fri 8/11/17	21	

Project: Project Schedule 2017
Date: Thu 5/25/17

Task Legend:

- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only
- External Task
- External Milestone
- Deadline
- Progress
- Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
24		90% CD's	10 days	Mon 7/31/17	Fri 8/11/17	20
25		RCCL/Port Review	5 days	Mon 8/14/17	Fri 8/18/17	24
26		100% CD's	5 days	Mon 8/21/17	Fri 8/25/17	25
27		Interiors Package	45 days	Mon 8/28/17	Fri 10/27/17	
28		50% CD's	20 days	Mon 8/28/17	Fri 9/22/17	26
29		Specifications	10 days	Mon 9/25/17	Fri 10/6/17	28
30		RCCL/Port Review	5 days	Mon 10/9/17	Fri 10/13/17	29
31		90% CD's	10 days	Mon 9/25/17	Fri 10/6/17	28
32		RCCL/Port Review	5 days	Mon 10/9/17	Fri 10/13/17	31
33		100% CD's	10 days	Mon 10/16/17	Fri 10/27/17	32
34		Finish & FF&E Package	120 days	Mon 5/22/17	Fri 11/3/17	
35		Detailed Finish & FF&E Selections w/ continued	80 days	Mon 5/22/17	Mon 9/11/17	36SF
36		RCCL/Port Review	5 days	Mon 9/11/17	Mon 9/18/17	37SF
37		90% CD's	15 days	Mon 9/18/17	Mon 10/9/17	116SF
38		RCCL/Port Review	5 days	Mon 10/9/17	Fri 10/13/17	37
39		100% CD's	15 days	Mon 10/16/17	Fri 11/3/17	38
40		Permit & Approvals	151 days?	Mon 5/29/17	Mon 12/25/17	
41		City of Hollywood	126 days?	Mon 7/3/17	Mon 12/25/17	
42		Early Plan Consultation	1 day?	Mon 7/3/17	Mon 7/3/17	10,76
43		Core & Shell	55 days	Mon 8/14/17	Fri 10/27/17	
44		Initial Plan Review	30 days	Mon 8/14/17	Fri 9/22/17	24
45		B&A Response to City Comments	10 days	Mon 9/25/17	Fri 10/6/17	44
46		Final Plan Review	15 days	Mon 10/9/17	Fri 10/27/17	45

Project: Project Schedule 2017
Date: Thu 5/25/17

Task Legend:

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
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- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	ber 1
47		Permit Issued	0 days	Fri 10/27/17	Fri 10/27/17	46	
48		Building	56 days?	Mon 10/9/17	Mon 12/25/17		
49		Initial Plan Review	30 days	Mon 10/9/17	Fri 11/17/17	31	
50		B&A Response to City Comments	10 days	Mon 11/20/17	Fri 12/1/17	49	
51		Final Plan Review	15 days	Mon 12/4/17	Fri 12/22/17	50	
52		Permit Issued	1 day?	Mon 12/25/17	Mon 12/25/17	51	
53		Environmental	20 days	Mon 5/29/17	Fri 6/23/17		
54		Structures	10 days	Mon 5/29/17	Fri 6/9/17	12SS+5 days	
55		Site	10 days	Mon 6/12/17	Fri 6/23/17	12FS+5 days	
56		Construction	280 days	Mon 9/25/17	Fri 10/19/18		
57		Selective Demolition	60 days	Mon 9/25/17	Fri 12/15/17	73,111	
58		Core, Shell & Site Work	130 days	Mon 12/18/17	Fri 6/15/18	57,47	
59		Interior, Finishes and FFE	110 days	Mon 4/23/18	Fri 9/21/18	58FS-40 days,52	
60		Substantial Completion & TCO	0 days	Fri 9/21/18	Fri 9/21/18	59	
61		Punch list	20 days	Mon 9/24/18	Fri 10/19/18	59	
62		Final Completion & CO	0 days	Fri 10/19/18	Fri 10/19/18	61	
63		Demolition of Building 22 & 24	115 days	Mon 6/12/17	Fri 11/17/17		
64		Design	35 days	Mon 6/12/17	Fri 7/28/17		
65		50% CD's	10 days	Mon 6/12/17	Fri 6/23/17	15	
66		90% CD's	10 days	Mon 6/26/17	Fri 7/7/17	65	
67		RCCL/Port Review	5 days	Mon 7/10/17	Fri 7/14/17	66	
68		100% CD's	10 days	Mon 7/17/17	Fri 7/28/17	67	
69		Permit & Approvals	55 days	Mon 7/10/17	Fri 9/22/17		

Project: Project Schedule 2017
Date: Thu 5/25/17

Task Legend:

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
- Inactive Milestone
- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	ber 1
70		Initial Plan Review	30 days	Mon 7/10/17	Fri 8/18/17	66	
71		B&A Response to City Comments	10 days	Mon 8/21/17	Fri 9/1/17	70	
72		Final Plan Review	15 days	Mon 9/4/17	Fri 9/22/17	71	
73		Permit Issued	0 days	Fri 9/22/17	Fri 9/22/17	72	
74		Demolition	40 days	Mon 9/25/17	Fri 11/17/17	73	
75		FP&L Vault	290 days	Mon 5/8/17	Fri 6/15/18		
76		Design	40 days	Mon 5/8/17	Fri 6/30/17		
77		Permit & Approvals	60 days	Mon 7/3/17	Fri 9/22/17	76	
78		T21 1st Call	0 days	Thu 10/12/17	Thu 10/12/17		
79		T21 Last Call	0 days	Mon 5/21/18	Mon 5/21/18		
80		Construction	120 days	Mon 9/25/17	Fri 3/9/18	77	
81		Demolition	20 days	Mon 5/21/18	Fri 6/15/18	80,79	
82		Mid-Port Garage (optional)	206 days	Thu 10/19/17	Thu 8/2/18		
83		Decision Point	0 days	Thu 10/19/17	Thu 10/19/17	85FS-10 days	
84		DRC	22 days	Wed 11/1/17	Fri 12/1/17		
85		Initial Meeting	1 day	Wed 11/1/17	Thu 11/2/17	86SF	
86		Design Submission	20 days	Thu 11/2/17	Thu 11/30/17	87SF	
87		Presentation	1 day	Thu 11/30/17	Fri 12/1/17	88SF	
88		Design	60 days	Fri 12/1/17	Thu 2/22/18		
89		Permit & Approvals	55 days	Fri 2/23/18	Thu 5/10/18		
90		Initial Plan Review	30 days	Fri 2/23/18	Thu 4/5/18	88	
91		B&A Response to City Comments	10 days	Fri 4/6/18	Thu 4/19/18	90	
92		Final Plan Review	15 days	Fri 4/20/18	Thu 5/10/18	91	

Project: Project Schedule 2017
Date: Thu 5/25/17

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
- Inactive Milestone
- Inactive Summary
- Manual Task
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- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	ber 1
93		Permit Issued	0 days	Thu 5/10/18	Thu 5/10/18	92	
94		Construction	60 days	Fri 5/11/18	Thu 8/2/18	93,87	
95		Gangway	357 days	Thu 5/18/17	Fri 9/28/18		
96		Technical Specificatin Due Diligence & Coordiantion with	60 days	Thu 5/18/17	Wed 8/9/17		
97		Issue PO	0 days	Fri 9/29/17	Fri 9/29/17		
98		Design & Procurement	141 days	Fri 9/29/17	Fri 4/13/18	97	
99		Fabrication and Assembly in Sweden	162 days	Mon 1/1/18	Tue 8/14/18	98FS-75 days	
100		Delivery	23 days	Wed 8/15/18	Fri 9/14/18	99	
101		Installation	10 days	Mon 9/17/18	Fri 9/28/18	100	
102		CMAR Procurement	135 days?	Mon 5/1/17	Fri 11/3/17		
103		RCL to Prepare RFP Package	12 days	Mon 5/1/17	Tue 5/16/17		
104		County/RCL Package Approval	7 days	Wed 5/17/17	Thu 5/25/17	103	
105		Advertise RFP	1 day	Fri 5/26/17	Fri 5/26/17	104	
106		Site Visit	1 day	Mon 6/5/17	Mon 6/5/17		
107		Deadline to Submit Questions	11 days	Mon 5/29/17	Mon 6/12/17	105	
108		County/RCL Respond to Questions	3 days	Tue 6/13/17	Thu 6/15/17	107	
109		RFP Due	21 days	Mon 5/29/17	Mon 6/26/17	105	
110		SC Evaluation of Proposals & Short List	10 days	Tue 6/27/17	Mon 7/10/17	109	
111		Oral Presentations and Ranking	5 days	Tue 7/11/17	Mon 7/17/17	110	
112		Negotiate Pre-Construction Agreement	3 days	Tue 7/18/17	Thu 7/20/17	111	
113		Issue Pre-Construction Limited Notice to Proceed	3 days	Tue 7/18/17	Thu 7/20/17	111	
114		GMP Estimate	20 days	Fri 7/21/17	Thu 8/17/17	113	
115		Issue Notice to Proceed Demolition Package	1 day?	Mon 9/25/17	Mon 9/25/17	73	

Task Legend:

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
- Inactive Milestone
- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress

Project: Project Schedule 2017
Date: Thu 5/25/17

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	per 1
116		Reconcile GMP	20 days	Mon 10/9/17	Fri 11/3/17	31	
117		CBP	151 days	Fri 4/28/17	Fri 11/24/17		
118		Letter of Intent	1 day	Fri 4/28/17	Fri 4/28/17		
119		SD - CBP Review #1	20 days	Mon 5/15/17	Fri 6/9/17	8	
120		DD - CBP Review #2	15 days	Mon 7/3/17	Fri 7/21/17	16	
121		CD - CBP Review #3	20 days	Mon 10/9/17	Fri 11/3/17	31	
122		CD - CBP Review #4	15 days	Mon 11/6/17	Fri 11/24/17	39	
123		Occupancy and Operations	385 days	Thu 6/15/17	Thu 12/6/18		
124		Site Available to RCL for Take Down	0 days	Thu 6/15/17	Thu 6/15/17		
125		Cease T25 Operations 2017	0 days	Thu 6/15/17	Thu 6/15/17	124	
126		CBP/RCLL Early Move-in	10 days	Mon 9/10/18	Fri 9/21/18	60FS-10 days	
127		Full Occupancy	20 days	Mon 9/24/18	Sun 10/21/18	128SF	
128		Soft Opening - Adventure	0 days	Sun 10/21/18	Sun 10/21/18		
129		Edge Arrival to PEV	0 days	Thu 12/6/18	Thu 12/6/18		

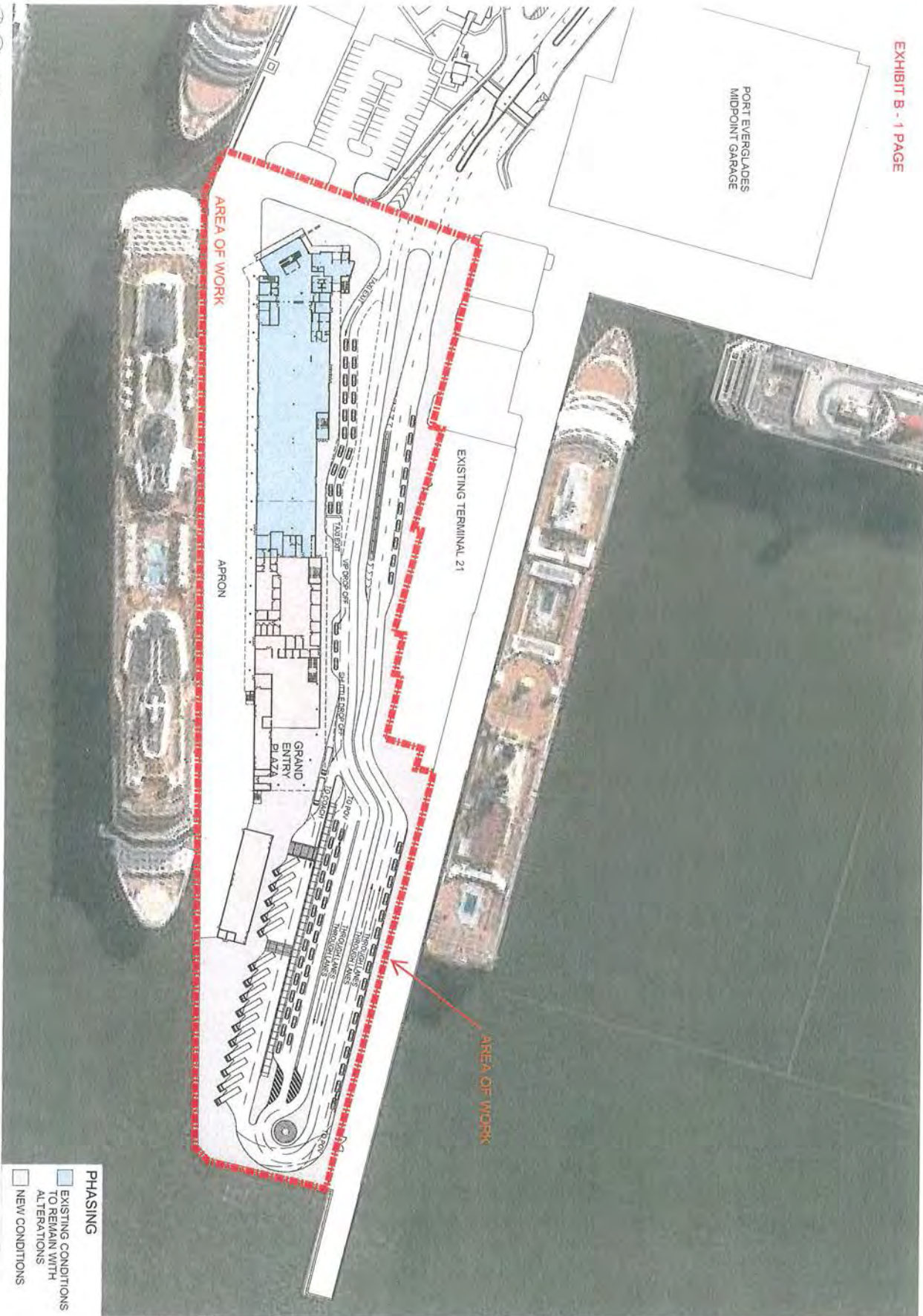
Project: Project Schedule 2017
Date: Thu 5/25/17

<p>Task</p> <p>Split </p> <p>Milestone </p> <p>Summary </p> <p>Project Summary </p> <p>Inactive Task </p> <p>Inactive Milestone </p>	<p>External Tasks</p> <p>External Milestone </p> <p>Deadline </p> <p>Progress </p> <p>Manual Progress </p>
<p>Inactive Summary </p> <p>Manual Task </p> <p>Duration-only </p> <p>Manual Summary Rollup </p> <p>Manual Summary </p> <p>Start-only </p> <p>Finish-only </p>	

EXHIBIT B
PROJECT AREA

EXHIBIT B - 1 PAGE

PORT EVERGLADES
MIDPOINT GARAGE



- PHASING**
- EXISTING CONDITIONS TO REMAIN WITH ALTERATIONS
 - NEW CONDITIONS

A - 7
SITE PLAN

PHASE 1:
PROGRAMMING
STUDY &
SCHEMATIC
DESIGN UPDATE
MAY 15, 2017

TERMINAL 25 PORT EVERGLADES

PORT EVERGLADES AUTHORITY

PORT EVERGLADES
BILLYARD COUNTY, FLORIDA

Celebrity **X** Cruises®



Bermejo Ajami & Partners, Inc.
2001 S BAYSHORE DRIVE, SUITE 1000
MIAMI, FL 33133
P. 305.859.2050
WWW.BERMELLOAJAMIL.COM

EXHIBIT C
INSURANCE REQUIREMENTS

Insurance Requirement – Exhibit “C”

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises–Operations <input checked="" type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations - Ten years <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other:	Bodily Injury		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$1 mil	\$2 mil
	Personal Injury		
BUSINESS AUTO LIABILITY* COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Scheduled <input checked="" type="checkbox"/> Any Auto	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 1 mil	
<input checked="" type="checkbox"/> EXCESS/UMBRELLA LIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Additional Insured endorsement is required	\$ 50 mil	
<input checked="" type="checkbox"/> WORKERS' COMPENSATION <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS (each accident)	STATUTORY \$ 1 mil	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
<input type="checkbox"/> PROFESSIONAL LIABILITY ~ E&O	(each accident)	\$	\$
	Extended coverage period		
<input checked="" type="checkbox"/> BUILDER'S RISK (PROPERTY) "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County.	Maximum Deductible: \$25 k DED for WIND or WIND & FLOOD not to exceed 5% of completed value CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value form
<input checked="" type="checkbox"/> POLLUTION LIABILITY OR ENVIRONMENTAL IMPAIRMENT LIABILITY WITH CLEAN-UP COSTS	Claims-made form w/ Extended Reporting Period of 3 yrs. Deductible not to exceed: \$ 100 k	\$ 2 mil	\$ 5 mil
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES Broward County and Royal Caribbean Cruises Ltd. are listed as Additional Insured on the General Liability policy. <u>Broward County reserves rights to place coverage for the Builder's Risk and Contractor Pollution Liability policies.</u> Reference: TERMINAL 25 CONSTRUCTION IMPROVEMENTS			

CERTIFICATE HOLDER:
Broward County
 1850 Eller Drive
 Fort Lauderdale, FL 33316

 Attn: John Foglesong


 Digitally signed by CARLOS DE LA GUERRA
 DN: cn=CARLOS DE LA GUERRA, o=PORT EVERGLADES, ou=BUSINESS ADMINISTRATION DIVISION, email=carlos.de.la.guerra@porteverglades.com, c=US
 Date: 2017.05.17 10:20:03 -0400
 Adobe Acrobat version: 11.0.19

Risk Management Division

EXHIBIT D
CBE UTILIZATION REPORT

EXHIBIT D

MONTHLY (CBE) UTILIZATION REPORT



MONTHLY (CBE) UTILIZATION REPORT

Report No. _____

Contract #:	Contract Amount:	Date Form Submitted:
Project Description:	Project Completion Date:	
Prime Contractor:	Period Ending:	Amt. Paid to Prime:
Contact Person:	Telephone#: () () ()	Fax#: () () ()

SUBCONTRACTING INFORMATION

TO BE SUBMITTED TO BROWARD COUNTY OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT
 Description of Work

Address	Original Agreed Price	Revised Agreed Price	% of work Completed to Date	Amount Paid This Period	Amount Paid To Date
Total Amount Paid to Subcontractors to Date:					

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

Signature: _____ Title: _____ Date: _____

Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.

OESBD Compliance Form 2009-MUR

EXHIBIT E

COMPETITIVE PROCUREMENT REQUIREMENTS

Construction Agent shall competitively procure and award the Construction Contract in accordance with Florida law and the following County requirements:

1. **Construction Contract – Request for Proposals.** Construction Agent shall prepare and issue in Construction Agent's name, on behalf of Broward County, a Request for Proposals (“RFP”), inviting qualified and licensed construction contractors authorized to do business in Florida to submit proposals to provide Construction Manager at Risk services for the Project.
 - 1.1 **Public Advertisement of RFP.** Construction Agent shall advertise the solicitation on the Broward County's Purchasing website designated for advertising of bids and at least once in a newspaper/periodical of general circulation in Broward County, and such advertisement shall contain a general description of the Project and instruct interested firms to contact Construction Agent for the solicitation package. In addition, Construction Agent may advertise the solicitation on the Internet and its own website, and may contact and invite certain firms of its choosing to respond to the solicitation. The deadline for submittals shall be thirty (30) calendar days after the posting of the public advertisement.
 - 1.2 **RFP Requirements.** The solicitation documents shall include:
 - (a) A summary of the Project, scope of services, and a brief description of the solicitation process, including, the solicitation or award protest procedures set forth in Section 1.6 of this Exhibit.
 - (b) The form of Construction Contract; proposers shall be asked to identify any objections, issues or concerns they have regarding the form of Construction Contract.
 - (c) A bid proposal bond in the amount of Ten Thousand Dollars (\$10,000) shall be delivered with the RFP showing the Construction Agent and the County as the dual obligees thereunder.
 - (d) The requirement that each proposer shall provide a certificate of insurance for the insurance required for the Project as described in the RFP.
 - (e) Requirements for the use of Building Information Modeling (“BIM”) in accordance with the Contract Documents.

- (f) A "Cone of Silence" provision prohibiting contractors and their representatives from communicating in any manner with Broward County and Construction Agent employees (who are discharged with the responsibility to review bid submittals and/or recommend contract award) until the solicitation process is completed upon award or otherwise terminated.
- (g) A requirement that each proposing contractor disclose any Construction Agent or Broward County officer or employee, or any "relative" of any such officer or employee as "relative" is defined in Section 112.3135(1)(d), Florida Statutes, who is an officer or director of, or has a material interest in, the proposer's business, and who is in a position to influence the procurement. Any Construction Agent or Broward County officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, or any other activity pertinent to the procurement is presumed to be a person having a material interest in the proposer's business if they directly or indirectly own more than five (5) percent of the total assets or capital stock of such proposer, or if they otherwise stand to personally gain if the contract is awarded to the proposer.
- (h) A statement that, upon receipt, all submittals become "Public Records" subject to disclosure in compliance with Chapter 119, Florida Statutes.
- (i) A statement requiring execution of a Nondisclosure Agreement prior to receipt of any solicitation documents containing sensitive security information or other information exempt from public disclosure pursuant to Florida law.
- (j) Broward County's Port Everglades Department's Security Badging Requirements.
- (k) "Responsiveness" criteria for determining whether each proposer has submitted a proposal which conforms in all material respects to the requirements of the solicitation, including that all required forms, information, signatures, certifications, notarizations, proof of licensure, or other mandated requirements have been submitted with the proposal by the established deadline.
- (l) "Responsibility" Criteria for determining whether each proposer has the capability in all respects to perform the Construction Contract requirements, and the experience, integrity and reliability which will assure good faith performance and successful completion of the Project, including, but not limited to:

1. Current financial information of the proposer;
2. Debarment or removal from either Construction Agent's or Broward County's vendor list;
3. Litigation/ Claims history;
4. If any exist, a final decree, declaration or order by a court, administrative hearing officer or other tribunal within the last five (5) years holding that the proposer breached or failed to perform a construction contract;
5. Performance history, if any, on contracts with Construction Agent and Broward County; and
6. Compliance with CBE Goals.

(m) Applicable Project-specific evaluation criteria, such as:

1. Experience and capability, including port cruise terminal projects or international airport terminal projects (with a preference for port cruise terminal project experience);
2. Ability/adequacy of professional personnel;
3. Past performance;
4. Willingness to meet time and budget requirements;
5. Office location;
6. Recent, current and project workloads;
7. Experience/proficiency in the use of BIM;
8. Experience in LEED certification; and
9. Project approach including schedule and proposed methodologies.

Price shall not be considered as a factor in the evaluation or ranking of the proposers. Each factor shall be assigned a percent (weight) based on importance, the total of which shall equal one hundred percent (100%). The criteria established by Construction Agent for evaluating the RFP shall be approved by the County's Contract Administrator or designee and such approval shall not be unreasonably withheld. The approved criteria, along with standard questions to be answered by all RFP proposers, shall be included in the RFP.

- (n) Disclosure of Broward County's Business Enterprise ("CBE") goal for the Project. The CBE goal for the Project is twenty eight percent (28.0%).
- (o) Disclosure that Broward County's Prevailing Wage Ordinance shall apply to the Contractor and require compliance with same.

1.3 Pre-Submittal Conference/Walk-Thru: Construction Agent and Broward

County staff shall conduct a pre-submittal conference and/or walk-thru of the Project Area for proposers.

1.4 Selection Committee. A Selection Committee (“SC”) consisting of two (2) Construction Agent appointed members and two (2) Broward County appointed members shall meet to review the proposals and recommend award; in event of voting tie of the SC, the tie breaking vote of the SC shall be cast by the County’s Chief Executive/Port Director after consultation with the SC committee members. The SC shall determine the responsiveness and responsibility (per Section 1.2(k) and (l) of this Exhibit) of the proposers prior to scoring them in accordance with the Project-specific criteria. The SC shall conduct discussions with, and may require presentations by, at least three (3) proposers regarding their qualifications, approach to the Project, and ability to furnish the required services; provided, however, that the SC may conduct discussions with fewer than three (3) proposers if fewer than three (3) proposers submitted proposals, or if fewer than three (3) proposers were deemed “responsive” and “responsible” by the SC. The SC shall score the firms for ranking in terms of preference.

1.4.1 No Conflicts. All SC members shall be free of conflicts of interest as provided by Part III, Chapter 112, Florida Statutes, as amended. No person shall be appointed to the SC whose service would create a conflict or the appearance of a conflict of interest.

1.4.2 Public Meeting Requirement. The pre-bid meeting and all meetings of the SC shall be publicly advertised, open to the public, and conducted in Broward County, at a Broward County facility accessible to members of the public, including the disabled. Summary minutes of all meeting(s) shall be taken by a Broward County representative. Notwithstanding anything to the contrary set forth in this Exhibit or otherwise, the SC shall be entitled to reject the proposal submitted by each of the proposers and to not accept any proposal which is submitted.

1.5 Contract Negotiations: Construction Agent shall undertake negotiations for a contract with the first-ranked firm at a guaranteed maximum price that Construction Agent determines is fair, competitive and reasonable. Such determination shall be based on a detailed analysis of the costs of the services in relation to their scope and complexity. The negotiations shall be publicly advertised, open to the public, and conducted in Broward County, at a Broward County facility accessible to members of the public, including the disabled. If a mutually acceptable contract cannot be executed after a reasonable time, Construction Agent shall declare impasse and proceed to negotiate with the next-ranked proposer(s) in accordance with the procedures herein.

1.6 Discriminatory Vendor Certification: Prior to contract execution, the successful

proposer must certify that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time), or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists (as provided in Section 215.473, Florida Statutes, as amended from time to time).

1.7 Competitive Solicitation or Award Protest. Any proposer who is aggrieved in connection with the competitive solicitation process may file a protest with Construction Agent as set forth below:

1.7.1 Protest of Solicitation Specifications/Requirements. Any protest concerning the solicitation specifications or requirements shall be submitted in writing to Construction Agent within seven (7) calendar days from issuance of the solicitation, and shall include a brief statement of the facts and arguments upon which it is based. Failure to file a protest within the prescribed seven-day period shall constitute a waiver of the ability to protest the solicitation specifications or requirements.

1.7.2 Protest of Decision of SC. A protest arising from the decision or vote of the SC shall be submitted in writing to Construction Agent within seven (7) calendar days after the decision or vote of the SC, and shall include a brief statement of the facts and arguments upon which it is based. Failure to file such protest within the prescribed seven (7) day period shall constitute a waiver of the ability to challenge such decision or vote of the SC.

1.7.3 Arbitrator to Resolve Protests. Within five (5) business days of receipt of a timely-filed protest under Sections 1.7.1 or 1.7.2 of this Exhibit, Construction Agent shall request the American Arbitration Association ("AAA") to appoint a single arbitrator from its Commercial Panel to hear and resolve the protest in accordance with the AAA's Commercial Arbitration Rules and Mediation Procedures. AAA shall appoint the arbitrator within five (5) business days of Construction Agent's request. The arbitrator shall hear the protest in Broward County, Florida, within ten (10) calendar days of his or her appointment, and shall render a written decision resolving the protest within ten (10) calendar days after the hearing. The arbitrator's authority shall not extend beyond hearing and resolving a protest filed under Section 1.7.1 or 1.7.2 of this Exhibit.

1.7.3.1 Payment for Arbitration Services. Broward County shall pay AAA's invoice(s) for the arbitration services provided under Section 1.7.3 of this Exhibit.

1.7.4 No Stay of Solicitation Process or Award During Protest. The filing of a timely protest, shall not stay the solicitation process or decision to award

the contract.

1.7.5 Condition Precedent Reimbursement by Broward County. The filing of a protest is an absolute condition precedent to instituting any action, suit, or other proceeding in any judicial, administrative, or other forum concerning the subject matter of the protest. Broward County shall pay for any expenses including reasonable legal fees and costs incurred by Construction Agent arising from a protest.

* * * * *

EXHIBIT E-1
FORM OF CMRA

CONTRACT

BETWEEN

ROYAL CARIBBEAN CRUISES LTD.,

As Construction Agent

for

BROWARD COUNTY, FLORIDA



and

As Managing General Contractor

for

Terminal 25 Expansion

Port Everglades, Florida

**CONSTRUCTION AGREEMENT BETWEEN MANAGING GENERAL CONTRACTOR
AND ROYAL CARIBBEAN CRUISES LTD., As Construction Agent for BROWARD COUNTY, FLORIDA**

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**CONSTRUCTION AGREEMENT BETWEEN MANAGING GENERAL CONTRACTOR
AND ROYAL CARIBBEAN CRUISES LTD., As Construction Agent for BROWARD COUNTY, FLORIDA**

Project Title:	Terminal 25 Expansion, Port Everglades, Florida
Location:	Terminal 25, Port Everglades, Florida

SUMMARY OF TERMS AND CONDITIONS

Construction Agent:	Royal Caribbean Cruises Ltd., as Construction Agent for Broward County, Florida
Construction Agent's Address:	Royal Caribbean Cruises Ltd. 1050 Caribbean Way Miami, Florida 33132 Attn: Mike Jones, SVP Supply Chain, Travel, Port Services and Work Place Solutions
Managing General Contractor:	
Contractor Address:	

Architect:	Bermello, Ajamil & Partners Inc.
Architect Address:	2601 S. Bayshore Drive Suite 1000 Miami, Florida 33133

Project Manager	Jones Lang LaSalle
Project Manager's Address	601 Brickell Key Drive, Suite 1000 Miami, Florida 33131 Attn: Robert Santasiero Director/South Florida PDS Lead

Consultant:	Atkins Group
Consultants Address:	3230 West Commercial Boulevard Suite 100 Ft. Lauderdale Florida 33309-3400

Article	Description	Unit
6	Preconstruction Work	
8.6	Substantial Completion	_____, 2018 (No later than October 31, 2018)
1.9	Final Completion	_____, 2018 (No later than December 31, 2018)
8.3.1	Liquidated Damages for each calendar day after time specified for Substantial Completion	\$ _____ per calendar day

8.3.2	Liquidated Damages for each calendar day after time specified for Final Completion	\$ _____ per calendar day
9.3.1	Compensable Excusable Delay for each calendar day beyond the Contract Time.	\$ _____ per day To cover all indirect costs
26.5	The Parties designate the following as the respective places for giving of notice:	See addresses set forth above.
26.7	CBE Program, which is implemented under the Broward County Business Opportunity Act of 2012.	In accordance with Broward County Ordinance No. 2012-33, as amended.

**CONSTRUCTION AGREEMENT
BETWEEN MANAGING GENERAL CONTRACTOR
AND ROYAL CARIBBEAN CRUISES LTD., As Construction Agent
for BROWARD COUNTY, FLORIDA**

This is a Construction Agreement ("Agreement"), made and entered into by and between ROYAL CARIBBEAN CRUISES LTD., a Liberian corporation authorized to transact business in the state of Florida ("Construction Agent"), as Construction Agent for Broward County, a political subdivision of the state of Florida ("County") and _____ ("Contractor") identified in the Summary Terms and Conditions (collectively referred to as the "Parties").

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1 - DEFINITIONS

Whenever the following terms, or pronouns in place of them, appear in the Contract Documents, the intent and meaning shall be interpreted as follows:

1.1 Architect: Bermello, Ajamil & Partners Inc., which has been retained by the County with respect to the Project.

1.2 Change Order: A written document ordering a change in the Guaranteed Maximum Price, Contract Time, or a material change in the Work.

1.3 Consultant: Atkins Group, the engineering firm who has contracted with County, to provide professional services for this Project.

1.4 Contract Documents: This Agreement and its exhibits, attachments and forms, Plans and Specifications, approved Shop Drawings and submittals, the Request For Proposals and Contractor's response thereto (as negotiated and accepted by the Construction Agent), any Addenda to the Contract Documents, the Performance Bond and Payment Bond, the Notice of Award, the Notice(s) to Proceed, and all Amendments, Change Orders or CPEAMs issued after execution of this Agreement are the documents which are collectively referred to as the Contract Documents.

1.5 Contract Price Element Adjustment Memorandum ("CPEAM"): A document issued by the Construction Agent to memorialize the reallocation of sums between Contract Price Elements included within the GMP which is approved by the County's designee and signed by the Construction Agent and the Contractor.

1.6 Contract Time: The time between the Project Initiation Date(s) specified in a Notice(s) to Proceed and Final Completion of the Work, or a phase of the Work, including any milestone dates thereof, established in this Agreement, as may be amended by a Change Order.

1.7 Contractor: The person, firm, or corporation with whom Construction Agent, on behalf of Broward County, has contracted and who is responsible for the acceptable performance of the Work and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor shall be deemed to be a reference to Contractor.

1.8 Direct Construction Cost of the Work. The Direct Construction Cost of the Work includes labor and materials for the Project. The actual Direct Construction Cost of the Work shall be reconciled and set forth in **Exhibit 1-R** after the bidding process as described in **Exhibit A-1**.

1.9 Effective Date. The effective date of this Agreement shall be the date that the last of Construction Agent and Contractor execute this Agreement.

1.10 Estimated Construction Cost of the Work. The Estimated Direct Construction Cost shall be as forth in **Exhibit 1-E**.

1.11 Excusable Delay: Delay which extends the completion of the Work and which is caused by circumstances beyond the control of Contractor or its Subcontractors, material persons, suppliers, or vendors.

1.12 Environmental Laws: shall have the meaning set forth in Section 20.5.

1.13 Final Completion: The date, as certified in writing by the Contractor and Construction Agent in the final Application and Certificate for Payment, and as finally determined by County's designee in his or her reasonable discretion, upon which: (i) all conditions and requirements of the Contract Documents, permits and regulatory agencies have been satisfied with respect to the Work; (ii) any and all documents required by the Contract Documents have been received by the County and Construction Agent; (iii) all required inspection and testing of the Work has been successfully passed; (iv) a certificate that, to the best of the Architect's and Construction Agent's knowledge, information and belief, all Work required for the Project has been fully completed in all material respects in accordance with the terms and conditions of the Contract Documents and it has passed all inspections, testing and commissioning by regulatory agencies (including CBP); and (v) all equipment and system manuals and guides, and all required warranties, have been turned over to Construction Agent. A Final Certificate of Completion or Occupancy or other permit closures by the authority having jurisdiction must be issued for Final Completion to be achieved.

1.14 Guaranteed Maximum Price ("GMP"): The maximum amount the County is obligated to pay Contractor for the complete performance of the Work and construction of the Project, which amount shall include, but is not limited to, all profit, overhead, on-site and off-site conditions (known and unknown), and administrative costs. The GMP is made up of the sum of the following Contract Price Elements:

- A. Preconstruction Services Cost
- B. Direct Construction Cost
- C. General Conditions Cost
- D. Fixed Fee
- E. Construction Agent's Allowance Account

- 1.15 Hazardous Substances: shall have the meaning set forth in Section 20.5.
- 1.16 Notice to Proceed: One or more written notices to Contractor from the Construction Agent authorizing the commencement of Work or a phase of the Work.
- 1.17 Plans and Specifications: shall mean the plans and specifications prepared by the Architect for the Project.
- 1.18 Pricing Documents: The set of Plans and Specifications upon which the Guaranteed Maximum Price is established as enumerated in Exhibit 4.
- 1.19 Project: The construction project described in the Contract Documents, including the Work described therein.
- 1.20 Project Initiation Date: The date(s) upon which the Contract Time commences for the Work, or a phase of the Work.
- 1.21 Project Manager: Jones Lang LaSalle, which is the designee of the Construction Agent and which shall have day-to-day administrative and managerial responsibility for the Project.
- 1.22 Shop Drawings: Drawings prepared by, and approved by, the Architect of a portion of the Project for use by the Contractor in connection with the construction of the Project.
- 1.23 Subcontractor: A person, firm, or corporation having a contract with Contractor to perform services on the Project.
- 1.24 Substantial Completion: The date, as certified in writing by the Contractor and the Architect, and as finally determined by Construction Agent and the County (which may act through its designee) in their respective reasonable discretion, that the Work is at a level of completion in substantial compliance with the Contract Documents and permits, such that the Work has passed inspection and testing by the applicable Governmental Authorities, and cruise lines are able to use Terminal 25 to receive, process and load and unload passengers, passenger luggage, staff, and supplies to cruise ships, including Celebrity Edge Class Ships. A Temporary Certificate of Occupancy or Certificate of Occupancy by the authority having jurisdiction must be issued for Substantial Completion to be achieved; provided however, the date of issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy is not to be determinative of the achievement or date of Substantial Completion.

1.25 Summary of Terms and Conditions: The Attachment that includes the number of days for performance of the Work, Liquidated Damage amounts related thereto, and other requirements. The number of days for Substantial Completion shall be established during performance of Preconstruction Services and agreed to by Construction Agent and Contractor.

1.26 Surety: The surety company or individual which is bound by the performance bond and payment bond with and for Contractor who is primarily liable, and which surety company or individual is responsible for Contractor's acceptable and timely performance and completion of the Work under this Agreement and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.

1.27 Work: The totality of the obligations, including, but not limited to, preconstruction services, administration, procurement, materials, equipment, labor, construction, and other services necessary for Contractor, or its agents, to fulfill Contractor's obligations under this Agreement.

ARTICLE 2 - PRIORITY OF PROVISIONS

2.1 The Contract Documents are intended to include all items necessary for the proper execution and completion of the work by Contractor. Any labor, services, materials, supplies, equipment, or documentation that may reasonably be inferred from the Contract Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to the County or to Construction Agent.

2.2 The Contract Documents are complementary, and wherever possible the provisions of the Contract Documents shall be construed in such manner as to avoid conflicts between provisions of the various Contract Documents. In the event of any inconsistency in the Contract Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Contract Documents shall be construed according to the following priorities:

- First priority: Approved Change Orders, Addendums, or Amendments
- Second priority: Plans (location and quantity) and Specifications (quality)
- Third priority: Agreement
- Fourth priority: Invitation to Bid
- Fifth priority: Contractor's bid

2.3 Anything shown on the Plans and not mentioned in the Specifications, or mentioned in the Specifications and not shown on the Plans, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Contract Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work, to Contractor shall control, as determined by the Architect.

2.4 The organization of the specifications into divisions and sections and the arrangement of Plans and Specifications shall not control Contractor in dividing the Work among Subcontractors

or in establishing the extent of the Work to be performed by any trade. The organization of the specifications and the arrangement of the Plans and Specifications are for the convenience of Contractor and are not intended to relieve Contractor from its obligation to conduct a complete study of the Contract Documents for the purpose of directing and coordinating the various Subcontractors and suppliers as to their respective responsibilities.

Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of permit issuance.

ARTICLE 3 - THE WORK AND CONSTRUCTION AGENT

- 3.1 Intention of Construction Agent: It is the intent of Construction Agent to describe in the Contract Documents a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials, or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied by Contractor, whether or not specifically called for by the Contract Documents. When words, which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such words shall be interpreted in accordance with that meaning. Construction Agent shall have no duties other than those duties and obligations expressly set forth within the Contract Documents.
- 3.2 Designation of Construction Agent. Construction Agent has been engaged by Broward County pursuant to the terms of that certain Construction Agency Agreement dated as of June __, 2017 to act on behalf of Broward County with respect to this Agreement as the "Construction Agent" for Broward County under this Contract. Notwithstanding anything to the contrary set forth in this Contract, Construction Agent shall have no personal liability to make any payment to Contractor from its own funds with respect to this Agreement or the Project. All payments payable to Contractor under this Agreement shall be made by Broward County directly to Contractor pursuant to the terms of this Agreement and Contractor agrees to look solely to Broward County for any and all payments and other liabilities owing by the Construction Agent to Contractor under this Agreement.

ARTICLE 4 - CONTRACTOR'S RESPONSIBILITIES

- 4.1 Contractor shall accept full responsibility for the Work against all loss or damage of whatsoever nature sustained until Final Completion, and shall promptly repair any damage done from any cause whatsoever.
- 4.2 Contractor shall be responsible for all materials, equipment, and supplies pertaining to the Project. In the event any such materials, equipment, and supplies are lost, stolen, damaged, or destroyed prior to Final Completion, Contractor shall replace same without cost to

Construction Agent or to the County. Contractor shall be responsible to protect all materials, equipment, and supplies, keeping them free from deterioration, weathering, rusting, or other action detrimental to the materials.

4.3 Construction Agent reserves the right to award other contracts, or perform work with its own forces, in connection with this Project. Contractor shall afford other persons or contractors reasonable opportunity for the introduction and storage of materials and the execution of services under such separate contracts. Contractor shall properly connect and coordinate its Work with the services of any other persons or contractors.

4.4 If any part of Contractor's Work depends for proper execution or results upon the services of any other person or contractor, Contractor shall inspect and promptly report to Construction Agent any defects in such services that render it unsuitable for such proper execution and results. Contractor's failure to so inspect and report shall constitute an acceptance of the other person's or contractor's services as fit and proper for the reception of Contractor's Work, except as to defects which may develop in other person's contractor's services after the execution of Contractor's Work.

4.5 Contractor shall conduct its operations and take all reasonable steps to coordinate the prosecution of the Work so as to create no interference or impact on any other contractor or Construction Agent or the County operations on the Project site. Should such interference or impact occur, and Contractor did not take reasonable steps, Contractor shall be liable for the cost of such interference or impact. Notwithstanding the foregoing, Construction Agent and Contractor agree, that Contractor shall take all reasonable steps to prosecute its Work in a manner which minimizes disruptions to the ongoing marine terminal operations (conducted by the County's tenants) in and adjacent to the Project site.

4.6 Contractor shall cause all materials and other parts of the Work to be readily available as and when required or needed for or in connection with the construction, furnishing, and equipping of the improvements.

4.7 Contractor shall plan, record, and update, at least monthly through Final Completion, the construction schedule of the Project. The Project Schedule shall indicate the dates for the commencement and completion of the various stages of construction and shall be revised as required by the conditions of the Work. The Project Schedule shall encompass all of the Work of all trades necessary for the construction of the Project and shall be sufficiently complete and comprehensive to enable progress to be monitored through the end of the warranty phase of the Project. The Project Schedule shall incorporate sufficient time for important milestone events and required coordination points as may have been established in the Project's Preconstruction Services phase.

4.8 Contractor shall be solely responsible for construction means, methods, techniques, sequences, and procedures employed in the performance of the Work.

4.9 In addition to the foregoing, the County may elect, due to the new ground transportation area for Terminal 25, proposed to be located to the north of the north end of Terminal 25, modify the ground floor of the existing Midport Parking Garage in order to turn that level into the ground transportation area of Terminal 21, therefore providing Terminal 21 with its own ground transportation area. The County may also elect to eliminate the ground level to second floor ramp inside such garage and construct a new ramp outside such garage to access the second floor, construct a baggage X-ray and forklift storage area on the northeast corner of such garage. The County may elect to require the Construction Agent to cause the Contractor to implement the option design set forth above in this Section 6.4 on or before the deadlines set forth in the Project Schedule.

4.10 The Preliminary Project Schedule as of the date of this Agreement is set forth on **Exhibit A-1, Attachment 1** attached hereto.

ARTICLE 5 - CONSULTANT'S RESPONSIBILITIES

5.1 Consultant shall monitor the overall quality, progress, and GMP.

5.2 Consultant shall provide on-site review of Work in progress, review of pay requests submitted by Contractor, assistance in the interpretation of the intent of the Contract Documents for the proper execution of the Work, and such other assistance as the County may request.

5.3 Consultant shall have no authority to order or approve any deviation from the Contract Documents, whether or not such deviation affects the GMP or the date of Substantial Completion.

5.4 If at any time Consultant observes or becomes aware of any fault or defect in the Work or of any nonconformance with the Contract Documents, Consultant will promptly notify Construction Agent, the Project Manager, Contractor and the County's designee in writing and will direct that all reasonable steps be taken to correct such fault, defect or nonconformance. Consultant shall have the authority to reject Work that does not, in its opinion, conform to the Contract Documents.

ARTICLE 6 - PRECONSTRUCTION SERVICES

6.1 Preconstruction Services shall consist of the tasks set forth in **Exhibit A-1**, attached hereto and made a part hereof. Contractor shall provide all Preconstruction Services as set forth in **Exhibit A-1** including all necessary, incidental, and related activities and services required by Preconstruction Services and contemplated in Contractor's level of effort.

6.2 The Preconstruction Services do not delineate every detail and minor work task required to be performed by Contractor to complete the Project. If, during the course of the performance of the services included in this Agreement, Contractor determines that work should be performed to complete the Project which in Contractor's opinion, is outside the level of effort

originally anticipated, whether or not Preconstruction Services identify the work items, Contractor shall notify Construction Agent in writing in a timely manner before proceeding with the work. If Contractor proceeds with said work without notifying Construction Agent, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in Preconstruction Services. Notice to Construction Agent does not constitute authorization or approval by Construction Agent to perform the work. Performance of work by Contractor outside the originally anticipated level of effort without prior written approval by the Construction Agent is at Contractor's sole risk.

6.3 Prior to the execution and delivery of this Agreement, Construction Agent and Contractor executed and delivered that certain Limited Notice to Proceed dated as of _____, 2017 which authorized Contractor to perform certain Preconstruction Services as described therein and which is attached hereto as **Exhibit A-1**. Any fees or other compensation paid by the County to Contractor under the Limited Notice to Proceed for Preconstruction Services shall be included in, and shall not be in addition to, the GMP.

ARTICLE 7 - CONTRACT PRICE ELEMENTS

The Contract Price Elements within the GMP are as follows:

7.1 Preconstruction Services Cost: The cost of Preconstruction Services, including labor and materials, as identified in Article 6. Construction Agent shall compensate Contractor for the performance of all required Preconstruction Services as set forth in **Exhibit A-1** attached hereto, for a total lump sum amount of \$_____. Such amount shall be payable in _____ equal monthly payments of \$_____.

7.1.1 Payment during Preconstruction Services Phase: Contractor shall invoice Construction Agent monthly for payment showing the allowable costs incurred that month for services. Each invoice shall be based on the approved Schedule of Values for the Preconstruction Services (**Attachment 4 to Exhibit A-1**) and Construction Services (**Attachment 1 to Exhibit A-2**), showing the appropriate cost categories and shall be accompanied by such supporting documentation by Contractor to substantiate the monthly billing.

7.2 Direct Construction Cost: The Direct Construction Cost of the Work includes labor and materials for the Project. The Estimated Direct Construction Cost shall be as forth in **Exhibit 1-E**. The actual Direct Construction Cost of the Work shall be reconciled and set forth in **Exhibit 1-R** after the bidding process as described in **Exhibit A-1**.

7.3 General Conditions Cost: Ancillary Project costs for the provision of administrative requirements, procedural requirements, temporary facilities and controls, performance requirements, and life cycle activities by Contractor for items which are not part of the permanent construction or which do not lend themselves readily to inclusion in one of the separate trade contracts. The General Conditions Cost may include, but are not limited to, those items listed on **Exhibit 2-E**. The Estimated General Conditions Cost shall be as set forth on

Exhibit 2-E. The actual General Conditions Cost shall be reconciled and set forth in **Exhibit 2-R** after the negotiation and bidding process set forth in **Exhibit A-1**.

7.4 Fixed Fee: The Fixed Fee shall be _____%. The estimated Fixed Fee shall be based upon the sum of Exhibit A-1 Preconstruction Services, Exhibit A-2 Construction Services, and the Estimated Direct Construction Cost and Estimated General Conditions Cost as set forth on Exhibits 1-E and 2-E respectively. The actual Fixed Fee shall be reconciled to the actual Preconstruction Costs as set forth on Exhibit A-1, Construction Services Costs as set forth on Exhibit A-1, Exhibit A-2 Construction Services, Direct Construction Costs, and actual General Conditions Costs as set forth in Exhibit B-R after the bidding process as described in Exhibit A-1.

7.5 Construction Agent's Allowance Account: The Construction Agent's Allowance Account is available at the discretion of Construction Agent and the County to cover increases to the scope of the Work due to differing site conditions, reconciliation of Direct Construction Cost after bidding or errors, omissions in the Contract Documents, or requested changes by the Construction Agent.

ARTICLE 8 - CONTRACT TIME; SUBSTANTIAL COMPLETION; LIQUIDATED DAMAGES

8.1 Contractor shall be directed in writing to commence the Work, or a portion thereof, in the form of a Notice(s) to Proceed issued by Construction Agent. The Notice(s) to Proceed will not be issued until after Contractor's submission to Construction Agent of all required documents and after execution of the Agreement by both Parties.

8.2 Notice(s) to Proceed:

8.2.1 Construction Agent shall have the authority to issue multiple Notice(s) to Proceed for the Work, or portions thereof. The work identified within a Notice to Proceed shall be commenced within ten (10) calendar days after the effective date set forth in a Notice to Proceed.

8.2.2 Prior to the issuance of a Notice to Proceed for construction of the Work, or a portion thereof (sub Phase), Contractor shall submit to Construction Agent and Consultant for approval all of the following items:

8.2.2.1 A Project Schedule in compliance with the Division 1 General Requirements. Additionally, at the request of Construction Agent, Contractor shall also provide a cost loaded schedule for review and approval.

8.2.2.2 A preliminary schedule of planned Shop Drawing and submittal submissions.

8.2.2.3 A preliminary schedule of values in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

8.2.2.4 Contractor shall meet with all utility owners and secure from them a utility coordination schedule of each utility relocation. Construction Agent shall not be responsible for the nonperformance or delay by the utility owners.

8.2.2.5 All permits required by authorities having jurisdiction for all applicable portions of the Work, unless otherwise provided by the Contract Documents.

8.2.3 Preconstruction Meeting: After receipt of all items identified above, Project Manager shall schedule a Preconstruction Meeting to discuss procedures for conducting the Work, including but not limited to: designating individuals to receive communications for required submissions, inspections and approvals; procedures for processing Applications for Payment; and to establish a working understanding among the Parties as to the Work.

8.2.4 Notice to Proceed for Construction: After the Preconstruction Meeting, Contractor may begin to perform the balance of the Work on the Project Initiation Date specified in the Notice to Proceed for construction of the Work.

8.3 Time is of the essence throughout this Agreement. The Work, or portions thereof, shall be substantially completed within the time set forth in the Summary of Terms and Conditions. Liquidated Damages shall be imposed in the amount as set forth in the Summary of Terms and Conditions for the following events:

8.3.1 Upon failure of Contractor to substantially complete the Work, or portions thereof, within the specified period of time, plus approved time extensions. Liquidated damages shall be assessed daily until Substantial Completion.

8.3.2 After Substantial Completion, should Contractor fail to complete the remaining Work within the time specified for Final Completion, Liquidated Damages shall be assessed daily until Final Completion.

The liquidated amounts are not penalties but are Liquidated Damages to the County for costs incurred due to Contractor's untimely performance. Liquidated Damages are hereby fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by Construction Agent and by the County as a consequence of such delay, and both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete the Work, or portions thereof on time. The amounts established for Liquidated Damages for Preconstruction Services, Substantial Completion, Final Completion, and any intermediate Milestones are stipulated by the Parties as fair and reasonable. Such Liquidated Damages shall apply separately to each portion of the Project for which a time for completion is given. Contractor waives any and all challenges and legal defenses to the validity of any Liquidated Damages established in the Contract Documents, including that the Liquidated

Damages are void as penalties or are not reasonably related to the actual damages sustained by the Construction Agent and the County as a result of Contractor's untimely performance.

8.4 Contractor, in addition to being responsible to the County for Liquidated Damages for untimely performance, shall reimburse the County and Construction Agent for all costs incurred by the County or Construction Agent to repair, restore, or complete the Work, including all costs incurred by the County for services provided by Consultant and Construction Agent for services provided by the Project Manager, in each case, in administering the construction of the Project beyond the completion dates, or beyond an approved extension of time granted to Contractor, whichever date is later. All such costs shall be deducted from the monies otherwise due Contractor for performance of Work under this Agreement by means of unilateral credit Change Orders issued by Construction Agent and approved by the County.

8.5 Construction Agent, directly or through the Project Manager, may direct Contractor to expedite the Work by whatever means Contractor may use, including, without limitation, increasing staffing or working extended hours and overtime to bring the Work back within the progress schedule. If the expediting of Work is required due to reasons within the control or responsibility of Contractor, then any additional costs incurred shall be at the sole responsibility of Contractor. If the expediting of Work is required due to reasons outside the control or responsibility of Contractor, then the additional costs incurred shall be the subject of an appropriate equitable adjustment.

8.6 Substantial Completion Date: When Contractor considers that the Work, or portion thereof designated by the Construction Agent, has reached Substantial Completion, Contractor shall notify Construction Agent, Project Manager, the County's designee and the Architect in writing, including a comprehensive list of items to be completed or corrected by Contractor. Architect shall then promptly make a preliminary inspection of the Work. When the Architect, on the basis of the preliminary inspection, determines that the Work, or designated portion thereof, is substantially complete, Architect will notify Construction Agent, the Project Manager, the Consultant and the County's designee. Construction Agent shall then, with Architect, the Project Manager, the Consultant and Contractor, perform Construction Agent's Substantial Completion Inspection.

8.6.1 If Substantial Completion of the Work, or a portion thereof, has been achieved, Architect shall prepare a Certificate of Substantial Completion in the form attached hereto as **Form 1** for execution by the Construction Agent and the Contractor and approval by the County (or its designee). The Certificate of Substantial Completion shall include: 1) the Date of Substantial Completion; 2) the responsibilities of Construction Agent and Contractor for security, maintenance, utilities, damage to the Work, and insurance; and 3) a Substantial Completion Punch List, including submittals, to satisfy the requirements for Final Completion.

8.6.2 The failure to include any items of corrective Work on the Substantial Completion Punch List does not alter the responsibility of Contractor to complete all of the Work in accordance with the Contract Documents.

8.6.3 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 Contract Documents or Certificate of Substantial Completion.

8.7 Use of Completed Portions: Construction Agent or the County shall have the right to take possession of and use any completed or partially completed portions of the Project. Such possession and use shall not be deemed an acceptance of any of the Work not completed in accordance with the Contract Documents. In the event Construction Agent or the County takes possession of any completed or partially completed portions of the Project, the following shall occur:

8.7.1 Construction Agent shall give notice to Contractor in writing at least thirty (30) calendar days prior to Construction Agent's or the County's intended occupancy of a designated area.

8.7.2 Contractor shall complete the designated area to the point of Substantial Completion and request inspection and issuance of a Certificate of Substantial Completion.

8.7.3 Upon the Architect's issuance of a Certificate of Substantial Completion, the applicable warranty(ies) shall commence and the County will assume full responsibility for maintenance, utilities, subsequent damages by the County and the public, and adjustment of insurance coverages for the occupied area unless otherwise agreed in writing.

8.7.4 Contractor shall complete all items noted on the Substantial Completion Punch List and request final inspection and final acceptance of the portion of the Work occupied.

8.7.5 If Construction Agent or the County finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed upon by Construction Agent and Contractor. Insurance on the unoccupied or unused portion or portions shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Contractor to such occupancy or use shall not be unreasonably withheld.

ARTICLE 9 - NOTIFICATION OF CHANGE IN CONTRACT TIME OR GMP

9.1 Any claim for a change in the Contract Time or GMP shall be made by written notice delivered by Contractor to Construction Agent with a copy to Project Manager and the County's designee within five (5) calendar days of the commencement of the event giving rise to the claim and stating the general nature of the claim. Notice of the nature and elements of the claim shall be delivered within twenty (20) calendar days after the date of such written notice. Within ten (10) calendar days of the termination of the event giving rise to the claim, notice of the extent of the claim with supporting data shall be delivered unless Construction Agent allows an additional

period of time to ascertain more accurate data in support of the claim. The notice of the extent of the claim shall be accompanied by Contractor's written notarized certification that the adjustment claimed is the entire adjustment to which Contractor has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time or GMP shall be determined by Architect in accordance with Article 26.4 herein, if Construction Agent and Contractor cannot otherwise agree. NO CLAIM FOR AN ADJUSTMENT IN THE CONTRACT TIME OR GMP WILL BE VALID IF NOT SUBMITTED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

9.2 No Damages for Delay: No claim for damages or any claim, other than for an extension of time, shall be made or asserted against Construction Agent or the County by reason of any delay. Contractor shall not be entitled to an increase in the GMP or payment or compensation of any kind from Construction Agent or the County for direct, indirect, general conditions, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever, whether such delay, disruption, interference, or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Contractor for hindrances or delays due solely to fraud, bad faith, or active interference on the part of Construction Agent, the County or Architect. Otherwise, Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

9.3 Excusable Delay: Contractor is entitled to a time extension of the Contract Time for each day the Work is delayed due to Excusable Delay. Contractor shall document its claim for any time extensions as provided in Section 9.1 herein. Failure of Contractor to comply with Section 9.1 herein as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay. Excusable Delay may be compensable or noncompensable.

9.3.1 Compensable Excusable Delay: Excusable Delay is only compensable when (i) the delay extends the Contract Time; and (ii) is due solely to fraud, bad faith, or active interference on the part of Construction Agent, the County or Architect. In no event shall Contractor be compensated for interim or noncritical delays which do not extend the Contract Time. Contractor shall be entitled to direct and indirect costs for Compensable Excusable Delay. Direct costs recoverable by Contractor shall be limited to the actual additional costs allowed pursuant to Article 11.

Construction Agent and Contractor recognize and agree that the amount of Contractor's precise actual indirect costs for delay in the performance and completion of the Work is impossible to determine as of the date of execution of the Contract Documents, and that proof of the precise amount will be difficult. Therefore, indirect costs recoverable by Contractor shall be liquidated on a daily basis for each day the Contract Time is delayed due to a Compensable Excusable Delay. These liquidated indirect costs shall be paid to compensate Contractor for all indirect costs caused by a Compensable Excusable Delay

and shall include, but not be limited to, all profit on indirect costs, home office overhead, home office acceleration costs, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs recoverable shall be the amount set forth in Summary of Terms and Conditions for each day the Contract is delayed due to a Compensable Excusable Delay.

9.3.2 Noncompensable Excusable Delay: When Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its Subcontractors, material persons, suppliers and vendors; (ii) is caused by circumstances beyond the control of the Construction Agent or the County; or (iii) is caused jointly or concurrently by Contractor or its Subcontractors, material persons, suppliers or vendors and by the Construction Agent, the County or Architect, then Contractor shall be entitled to a time extension equal to the actual number of days delayed on the critical path.

Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for change in Contract Time pursuant to Section 9.1. These time extensions are justified only when rain or other inclement weather conditions or related adverse soil conditions prevent Contractor from productively performing controlling items of Work identified on the accepted schedule or updates resulting in Contractor being unable to work at least fifty percent (50%) of the normal workday on controlling items of Work identified on the accepted schedule or updates due to adverse weather conditions. Notwithstanding the foregoing, Contractor shall not be entitled to receive an extension to the Contract Time for delays caused by the effects of inclement weather for the initial _____ (___) days of such inclement weather.

9.4 Differing Site Conditions: In the event that during the course of the Work Contractor encounters an underground utility that was not shown on the Contract Documents, or subsurface or concealed conditions at the Project site which differ materially from those shown on the Contract Documents and from those ordinarily encountered and generally recognized as inherent in Work of the character called for in the Contract Documents, Contractor, without disturbing the conditions and before performing any work affected by such conditions, shall, no later than 9:00 a.m. the next business day after their discovery, notify Construction Agent, Project Manager, the Consultant and the County's designee in writing of the existence of the aforesaid conditions. Consultant and Project Manager shall, within two (2) business days after receipt of Contractor's written notice, investigate the site conditions identified by Contractor. If, in the sole opinion of Consultant and Project Manager, the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work, Consultant and Project Manager shall recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If Construction Agent and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to the Architect for determination in accordance with Section 26.4. Should the Architect determine that the conditions of the Project site are not so materially different to justify a change in the terms of the Contract, the Architect shall so notify Construction Agent and Contractor in writing, stating the reasons, and such determination shall be final and binding upon the Parties hereto.

No request by Contractor for an equitable adjustment or change to the Contract Time under this provision shall be allowed unless Contractor has given written notice in accordance with the provisions of this section.

No request for an equitable adjustment or change to the Contract Time or differing site conditions shall be allowed if made after the date certified by Consultant as the date of Substantial Completion.

ARTICLE 10 - CHANGES IN THE WORK OR TERMS OF CONTRACT DOCUMENTS

10.1 Without invalidating this Agreement, Construction Agent reserves and shall have the right, from time to time, to make such increases, decreases, or other changes in the Work including, but not limited to, the character and quantity of the Work as may be considered necessary or desirable. Any changes to the scope of this Project must be accomplished by means of appropriate 1) Field Orders or Supplemental Instructions; 2) CPEAMs; or 3) Change Orders. Any sums moved between Contract Price Elements included within the GMP must be accomplished by an appropriate CPEAM. The amount of any CPEAM or Change Order shall be determined pursuant to Articles 9 and 10. In no event shall the GMP be modified except by appropriate Change Order or amendment.

10.2 Field Orders and Supplemental Instructions: Construction Agent or Project Manager have the authority to issue Field Orders or Supplemental Instructions ordering minor changes in the Work, providing the Field Order or Supplemental Instructions involve no change in the Direct Construction Cost or Contract Time.

10.3 Contract Price Element Adjustment Memoranda (CPEAM): Upon receipt of approval from the County's designee, Construction Agent is authorized to issue a CPEAM to reallocate sums between the Contract Price Elements within the GMP. In no event shall the GMP be modified except by Change Order or Amendment. If Construction Agent changes the Scope of Work, the Fixed Fee shall be adjusted as set forth in Section 10.4. Contractor shall advise Construction Agent in writing within seven (7) calendar days of receipt of a CPEAM of any objections or claims arising from the CPEAM or same shall be deemed waived. The following specific CPEAMs are contemplated, but additional or different CPEAMs may be issued:

10.3.1 When subcontracts of the Project are bid and have been executed, if the sum of the bids is below the Contractor's Estimated Direct Construction Cost, a CPEAM shall be issued by Construction Agent to move the surplus to the Construction Agent's Allowance Account. If the sum of the subcontracts awarded exceeds the Contractor's Estimated Direct Construction Cost, the deficiency may be taken by CPEAM from the Construction Agent's Allowance Account at the sole discretion of Construction Agent, provided however, it shall not be cause to increase the GMP.

10.4 Change Orders: Changes in the quantity or character of the Work within the scope of the Project which are not properly the subject of Field Orders or Supplemental Instructions, including

all changes resulting in changes in the GMP, or the Contract Time, shall be authorized only by written Change Orders approved and issued by Construction Agent.

10.4.1 Fees for Change Orders shall be determined as follows:

10.4.1.1 The Fixed Fee shall be adjusted if the Construction Agent increases or decreases the scope of the Work. Adjustments to the Fixed Fee shall be in the percentage amount set forth in Section 7.4.

10.4.1.2 Subcontractor's percentage markup for overhead and profit shall be reasonable, but in no event shall the aggregate of the Subcontractor's overhead and profit markups exceed ten percent (10%) of the net change to the Subcontractor's Cost of the Work. In the event Subcontractor is affiliated with Contractor by common ownership or management, or is effectively controlled by Contractor, no markup or Fixed Fee will be allowed on the Subcontractor's Cost of Work. In the event there is more than one level of Subcontractor, such as second and third tier Subcontractors, the sum of all of the Subcontractors', including any tiered Subcontractors', percentage markups for overhead and profit shall not in the aggregate exceed twenty percent (20%) of the net change to the Subcontractor's Cost of the Work.

10.4.1.3 Whenever a change in Subcontractor work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, Contractor shall submit an initial cost estimate obtained from the Subcontractor and acceptable to Consultant. The breakdown shall list, for each Subcontractor, the quantities and unit prices for materials, labor, equipment, overhead, profit, and other items of the Cost of the Work.

10.4.2 Contractor shall not start work on any changes requiring an increase in the GMP until a Change Order setting forth the adjustments is approved and issued by the Construction Agent and the County. Upon receipt of an executed Change Order, Contractor shall promptly proceed with the work set forth within the document.

10.4.3 On approval of any change increasing the GMP, Contractor shall ensure that the Performance Bond and Payment Bond are increased so that each reflects the total GMP as increased.

10.4.4 To avoid delays to the Project and to mitigate damages to the Parties, Change Orders may be issued unilaterally by Construction Agent. Upon receipt by Contractor of a unilateral Change Order, Contractor shall proceed with the work set forth in the unilateral Change Order.

ARTICLE 11 - PAYMENTS AND COST OF THE WORK

11.1 The term "Cost of the Work" shall mean the sum of all direct costs necessarily and reasonably incurred and paid by Contractor (as set forth hereinbelow) in the performance of the Work. The basis of payment for direct Costs shall be Contractor's actual direct Costs as established by the Subcontractor bidding process described in **Exhibit A-1**. Such direct Costs shall be at rates not higher than those customarily paid in the locality of the Project except with the prior written consent of Construction Agent. The Cost of the Work shall include only the items as follows:

11.1.1 Contractor's Direct Construction Cost: Contractor's Direct Construction Cost, as generally described on **Exhibit 1-E** and, subsequently on **Exhibit 1-R**, attached hereto, to be 100% performed by Subcontractors selected in accordance with **Exhibit A-1**. Where the Work is covered by unit prices contained in the Contract Documents or an applicable subcontract, the Cost of the Work shall be determined by application of unit prices to the quantities of items involved. If the Subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work shall be determined in the same manner as Contractor's Cost of the Work.

11.1.2 Contractor's Labor Costs: Payroll costs for employees in the direct employ of Contractor in the performance of the Work described in the Contract Documents shall be limited to salaries plus labor burden as set forth in the schedule of job classifications agreed upon by County and Contractor in **Exhibit 2-E** and, subsequently, **Exhibit 2-R**. Payroll costs for employees not employed full time on the Work covered by the Agreement shall be apportioned on the basis of the time the employees spent on the Work. Payroll costs shall include salaries and wages plus the labor burden to cover costs including social security contributions, unemployment, excise and payroll taxes, health insurance, sick leave, and vacation and holiday pay.

11.1.3 Materials and Equipment: Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith, adjusted in accordance with Article 12 pertaining to Discounts, Rebates and Refunds; rentals of all construction equipment, machinery and parts, in accordance with rental agreements and the costs of transportation, loading, unloading, installation, dismantling, and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery and parts shall cease when the use thereof is no longer necessary for the Work.

11.1.4 Miscellaneous costs:

11.1.4.1 The cost, as documented by Contractor's detailed receipts, of telephone, telegrams, postage, photographs, blueprints, office supplies, first aid supplies, and related miscellaneous costs reasonably incurred in direct support of the Work at the Project Location.

11.1.4.2 Premiums (net) on bonds and insurance, including Subcontractor bonds, if any, that Contractor is obligated to secure and maintain under the terms of the Contract Documents and such other insurance and bonds as may be required, subject to the written approval of the Construction Agent. Premiums paid shall be net of trade discounts, volume discounts, dividends and other adjustments. All insurance and bonds shall be provided by companies acceptable to the Construction Agent and the County. Self-insurance by Contractor or insurance through any affiliates of Contractor shall not be permitted without the Construction Agent's and the County's prior written approval. Construction Agent's and the County's approval shall not be required on Subcontractor bonds, and premiums thereof shall be considered a Cost of the Work.

11.1.4.3 The cost of obtaining and using any utility services required for the Work that are not paid directly by County or Construction Agent, including fuel and sanitary services at the Project site.

11.1.4.4 The cost of removal of debris from the site. The Project site, lay-down locations, and staging sites will be kept clear of all debris on a daily basis. All subcontracts shall require Subcontractors to remove all debris daily created by their activities, and Contractor shall exercise its best efforts to enforce such requirements or to effect the removal of the debris of the Subcontractors who fail in this regard, provided, however, Contractor shall not be required to remove debris created by the County's separate contractors except pursuant to Change Order procedures set forth herein.

11.1.4.5 Federal, state, municipal, sales, use, and other taxes, as applicable to the Project, all with respect to services performed or materials furnished for the Work, it being understood that none of the foregoing includes federal, state or local income or franchise taxes.

11.1.4.6 All reasonable costs and expenditures necessary for the operation of the Project job site office(s), including cost of field computer equipment and software.

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

11.1.4.8 The proportion of necessary transportation, travel and subsistence expenses of Contractor's employees, excluding travel time, incurred in discharge of duties connected with the Work except for local travel to and from the site of the Work.

11.1.4.9 Cost of special consultants, including, but not limited to, engineers, architects, testing laboratories, and surveyors employed for services specifically related to the Work.

11.1.4.10 Any other expenses or charges incurred, with the prior written approval of Construction Agent, in the performance of the Work.

11.2 Exclusions to Cost of The Work: Overhead is defined as any and all other costs, not referenced in Section 11.1, of Contractor and its operation which are not in direct support of the Project. Contractor agrees to furnish and perform, as a part of Contractor's Fee and without reimbursement, said overhead items. The term "Cost of the Work" shall not include any of the following:

11.2.1 Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorship), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor, whether at the Project site or in its principal or a branch office, for general administration that are not specifically included in the General Conditions. All such costs are to be considered administrative costs covered by Contractor's fee.

11.2.2 Other than those expenses authorized by this Agreement, expenses of Contractor's principal and branch offices.

11.2.3 Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

11.2.4 Other overhead, general expense costs, or charges of any kind and the cost of any item not specifically and expressly included in Section 11.1.

11.2.5 Entertainment and meal expenses for full-time employees stationed on Project site (with advance approval by the Construction Agent), and charges of a personal nature.

11.2.6 Bonuses, profit-sharing, or other special labor charges not included in Section 11.1, herein.

11.3 Progress Payments: Contractor may make Application for Payment for Work completed during the Project at intervals of not more than once a month. The Preconstruction lump sum compensation shall be made as set forth in Section 7.1 herein. Contractor shall, where the Project involves CBE Subcontractors, make application for payment for Work completed by such Subcontractors during the Project at monthly intervals and shall pay its Subcontractors within ten (10) calendar days following receipt of payment from the County for such subcontracted Work. Contractor's application shall show a complete breakdown of the Project components, the percentages completed and the amount due in proportion to the percentage of the Work

completed, based upon the Schedule of Values. General Conditions shall be billed at cost or, at Construction Agent's option, as a Negotiated Lump Sum payable in proportion to the percentage of the Work completed. Contractor shall submit with each Application for Payment, an updated Project Schedule acceptable to Construction Agent and Architect as required by the Division 1 General Requirements, a Certification of Payments to Subcontractors (**Form 9** as attached hereto), and either release of liens from Contractor relative to the Work which is the subject of the Application or consent of the Surety as to such payment. All Applications for Payment shall be accompanied by a completed Statement of Compliance in the form attached hereto as **Form 2**, a completed Certification of Payments to Subcontractors in the form attached hereto as **Form 9**, and a Monthly CBE Utilization Report form attached hereto as **Form 7**. **Form 9** shall be accompanied by a copy of the notification sent to each Subcontractor listed in item 2 of the Form, explaining the good cause why payment has not been made. Each Application for Payment shall be submitted in triplicate to the Architect, Construction Agent and Project Manager for certification and distribution to the County.

11.3.1 Ten percent (10%) of all monies earned by Contractor shall be retained by the County, except for General Conditions. After fifty percent (50%) of the Work has been completed, after receiving approval from the County's designee, Construction Agent shall reduce the retainage to five percent (5%) of all monies previously earned and all monies earned thereafter. After ninety percent (90%) of the Work has been completed and after receiving approval from the County's designee, Construction Agent may reduce the retainage to two and one-half percent (2½%) of all monies previously earned and all monies earned thereafter. Nothing contained herein requires the County to pay or release any amounts that are the subject of a good faith dispute, the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the Construction Agent, the County or Contractor. Subsequent to Final Completion and prior to final payment and after receiving approval from the County's designee, retainage may be reduced to a nominal amount at the sole discretion of the Construction Agent. After receiving approval from the County's designee, Construction Agent may authorize release of retainage to a particular Subcontractor or trade when the Work of that Subcontractor or trade is satisfactorily completed. Any interest earned on retainage shall accrue solely to the benefit of the County.

11.3.2 The County may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of: defective Work not remedied; claims filed or reasonable evidence indicating probable filing of claims by other parties; failure of Contractor to make payments properly to Subcontractors or for material or labor; damage to another contractor not remedied; Liquidated Damages and costs incurred by Construction Agent for extended construction administration; failure of Contractor to provide all required documents to Construction Agent ; or other Construction Agent claims.

11.3.3 The Schedule of Values, prepared in accordance with Division 1 General Requirements, shall expand and detail the items contained in **Exhibits 1-R and 2-R** attached hereto, and shall list the cost of materials, the cost of labor, the cost of

equipment and the cost of Subcontractor work separately for all the portions of the Work delineated. Each monthly application for payment shall be for a sum equal to the total of (i) that portion of Direct Construction Cost equal to the percentage of the Work completed; (ii) actual General Conditions Cost; and (iii) an appropriate amount of Fixed Fee as related to the percentage of Direct Construction Cost and actual General Conditions Cost paid. The calculation of the percentage of the Work completed shall be in accordance with the approved Project Schedule as updated.

11.4 The Architect, Consultant, Project Manager and Construction Agent shall review each such Application for Payment and may make such exceptions as the Architect, Consultant, Project Manager and Construction Agent reasonably deem necessary or appropriate under the circumstances then existing. In no event, shall the County be required to make payment for items of Contractor's Application for Payment to which the Architect, Consultant, Project Manager or Construction Agent reasonably take exception.

11.5 Contractor shall remain solely liable for the Work and for any unpaid laborers, material suppliers or Subcontractors in the event it is later discovered that any Work is deficient or that any laborers, material suppliers or Subcontractors did not receive payments.

11.6 Within thirty (30) calendar days after Final Completion, Contractor shall submit a final Application for Payment, which shall set forth all amounts due and remaining unpaid to Contractor. Upon approval of the final Application for Payment, Construction Agent will issue a Final Certificate of Payment in the form attached hereto as **Form 3**. Contractor shall deliver to Construction Agent the Form of Final Receipt in the form as attached hereto as **Form 4**.

ARTICLE 12 - DISCOUNTS, REBATES, REFUNDS, AND TAXES

12.1 All cash discounts obtained on payments made by Contractor shall accrue to the County unless Contractor actually advanced its own funds, prior to receipt of funds from the County, to make the payment giving rise to the discount. When Contractor becomes aware that a cash discount may be available to the County, Contractor shall, prior to advancing its own funds, notify the Architect, the Consultant, Construction Agent and Project Manager of such opportunity so the County may, at its option, make the required payment to achieve the discount for the County.

12.2 All trade discounts, rebates and refunds, including those pertaining to insurance, and all returns from sale of surplus materials and equipment shall accrue to the County, and Contractor shall make provisions so that they may be obtained.

12.3 Contractor shall pay all applicable sales, consumer, use and other taxes required by law. Contractor is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

ARTICLE 13 - SUBCONTRACTS AND PURCHASE ORDERS

13.1 Unless waived in writing by Construction Agent and County's designee, Contractor shall obtain competitive pricing through competitive, sealed bidding for One Hundred Percent (100%) of Direct Construction Cost and those biddable elements of the General Conditions for the Work required under this Agreement pursuant to the requirements specified on **Exhibit A-1**.

13.2 Contractor's subcontract agreement shall provide that: Subcontractor shall perform its portion of the Work in accordance with all applicable provisions of this Agreement and the Contract Documents; Subcontractor is bound to Contractor to the same extent Contractor is bound to Construction Agent; and Subcontractor is subject to the terms and conditions of the Agreement, i.e., a "flow-down" provision. Further, the Subcontractor agreement shall provide that in the event this Agreement is terminated for any reason, the Subcontractor shall, at Construction Agent's option, perform its subcontract for Construction Agent, or for another contractor designated by Construction Agent, without any additional or increased cost, provided Subcontractor is paid in accordance with its subcontract. Contractor shall sign and cause each Subcontractor to sign an Assignment of Rights under its subcontract.

13.3 Nothing contained herein shall impose on Construction Agent an obligation to assume any subcontract or make payment to any Subcontractor, vendor, or supplier to perform pursuant to this section. Further, nothing contained herein, shall create any contractual relationship between Construction Agent and any Subcontractor, vendor, or supplier.

13.4 All subcontracts shall, so far as practicable, contain unit prices for use in determining the cost of any required changes in the Work.

ARTICLE 14 - INSURANCE

14.1 Contractor shall maintain, at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum limits of insurance coverage designated on **Form 11** and in the Contract Documents (inclusive of any amount provided by an umbrella or excess policy) in accordance with the terms and conditions stated in this Article. All required insurance shall apply on a primary basis, and shall not require contribution from, any other insurance or self-insurance maintained by County. Any insurance, or self-insurance, maintained by County shall be in excess of, and shall not contribute with, the insurance provided by Contractor. For purposes of this article, the term "County" shall include Broward County and its members, officials, officers, and employees.

14.2 Insurers providing the insurance required by this Agreement must either be: (1) authorized by a current certificate of authority issued by the State of Florida to transact insurance in the State of Florida, or (2) except with respect to coverage for the liability imposed by the Florida Workers' Compensation Act, an eligible surplus lines insurer under Florida law. In addition, each such insurer shall have and maintain throughout the period for which coverage is required, a minimum A. M. Best Company Rating of "A-" and a minimum Financial Size Category

of "VII." To the extent insurance requirements are designated in the Minimum Insurance Requirements, the applicable policies shall comply with the following:

14.2.1 Commercial General Liability Insurance. Policy shall be no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO).

County, Construction Agent, Project Manager and Consultant shall be included on the policy (and any excess or umbrella policy) as "Additional Insureds" on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees, or Contractor). The policy (and any excess or umbrella policy) must be endorsed to waive the insurer's right to subrogate against County.

Contractor shall maintain products/completed operations coverage for at least three (3) years after the final completion of the Work, unless a longer period is identified in the Minimum Insurance Requirements. In that case, the term specified in the Insurance Requirements shall supersede.

14.2.2 Business Automobile Liability Insurance. Policy shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of work under this Agreement. County, Construction Agent, Project Manager and Consultant shall be included on the policy (and any excess or umbrella policy) as "Additional Insureds." The policy (and any excess or umbrella policy) must be endorsed to waive the insurer's right to subrogate against County.

14.2.3 Workers' Compensation/Employer's Liability Insurance. Such insurance shall be no more restrictive than that provided by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), with the exception of endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer's right to subrogate against County in the manner which would result from the attachment of the NCCI form "Waiver of our Right to Recover from Others Endorsement" (Advisory Form WC 00 03 13) with County scheduled thereon. Where appropriate, coverage shall be included for any applicable Federal or State employer's liability laws including, but not limited to, the Federal Employer's Liability Act, the Jones Act, and the Longshoreman and Harbor Workers' Compensation Act.

In the event that Contractor provides all or a portion of the Workers' Compensation/Employer's Liability insurance required herein via a professional employer organization ("PEO") or employee leasing company, any such Workers' Compensation/Employer's Liability insurance provided will only be deemed acceptable

solely for the purposes of insuring Contractor's enrolled employees. In addition, and notwithstanding the foregoing, in order to adequately protect the County against injuries to uninsured employees of Subcontractors and non-enrolled employees of Contractor, Contractor must still procure, maintain, and furnish the County with evidence of a stand-alone separate Workers' Compensation/Employer's Liability insurance policy issued with Contractor as the named insured, and complying with all requirements for Contractor provided Workers' Compensation contained in the Agreement. It is permissible for Contractor to exclude payroll of leased employees from such separate Workers' Compensation/Employer's Liability insurance policy.

14.2.4 Environmental Pollution Liability. Such insurance shall include clean-up costs and provide coverage to Contractor for liability resulting from pollution or other environmental impairment arising out of, or in connection with, work performed under this Agreement, or which arises out of, or in connection with this Agreement, including coverage for clean-up of pollution conditions and third-party bodily injury and property damage arising from pollution conditions. Such insurance shall also include Transportation Coverage and Non-Owned Disposal Sites coverage. Should policy provide coverage on a claims-made basis, the coverage shall be in force and effect to respond to all claims reported within at least three years following the period for which coverage is required, unless a longer period is indicated in the Minimum Insurance Requirements, and which would have been covered had the coverage been provided on an occurrence basis.

County, Construction Agent, Project Manager and Consultant shall be included as "Additional insureds" on the policy. Contractor shall be responsible for all deductibles in the event of a claim.

14.2.5 All insurance described in this Article 14 shall be in force and evidenced to Construction Agent and County as a condition precedent to the Notice to Proceed for construction.

14.3 Builder's Risk. Notwithstanding anything to contrary set forth in this Article 14, the Contractor shall obtain and pay for the Builder's Risk Insurance for the Project. Coverage shall be "All Risks," Completed Value form with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each claim for all perils except wind and flood. For the perils of wind and flood, County shall maintain a deductible that is commercially feasible which does not exceed five (5%) of the "values at risk at the time of loss" unless otherwise approved by County's Risk Management Division.

14.3.1 Sublimits: With respect to coverage for the peril of wind, the policy shall not be subject to any sublimit which is less than Fifty Million Dollars (\$50,000,000) per occurrence. With respect to the peril of Flood, the policy shall not be subject to any sublimit which is less than Ten Million Dollars (\$10,000,000) per occurrence. Any sublimit for wind or flood lower than those identified in the foregoing must be approved by the County's Risk Management Division.

14.3.2 Waiver of Occupancy Clause or Warranty-Policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty or representation that the building(s), addition(s) or structure(s) in the course of construction shall not be occupied without specific endorsement of the policy. The Policy must be endorsed to provide that the Builder's Risk coverage will continue to apply until final acceptance of the building(s), addition(s) or structure(s) by County.

14.3.3 The Builder's Risk policy shall reflect the County and Construction Agent, as an "Additional Insured" and as a loss payee.

14.3.4 In the event that a claim occurs for this Project and is made upon the Contractor's builder's risk insurance policy, Contractor shall be responsible for up to the first Fifty Thousand Dollars (\$50,000) of the deductible amount for such claim.

14.4 Within fifteen (15) days after the full execution of this Agreement or notification of award, whichever is earlier, Contractor shall provide to County satisfactory evidence of the insurance required in this Agreement. With respect to the Workers' Compensation/Employer's Liability Insurance, Professional Liability and Business Automobile Liability Insurance, an appropriate Certificate of Insurance identifying the project and signed by an authorized representative of the insurer shall be satisfactory evidence of insurance. With respect to the Commercial General Liability and Builder's Risk, an appropriate Certificate of Insurance identifying the project, signed by an authorized representative of the insurer, and copies of the actual additional insured endorsements as issued on the policy(ies) shall be satisfactory evidence of such insurance.

14.5 Coverage is not to cease and is to remain in force until Construction Agent determines all performance required of Contractor is completed. If any of the insurance coverage will expire prior to the completion of the Services, proof of insurance renewal shall be provided to Construction Agent prior to the policy's expiration.

14.6 Contractor shall provide Construction Agent and County thirty (30) days' advance notice of any cancellation of the policy except in cases of cancellation for non-payment for which County and Construction Agent shall be given ten (10) days' advance notice.

14.7 Contractor shall provide, within thirty (30) days after receipt of a written request from Construction Agent or County, a copy of the policies providing the coverage required by this Agreement. Contractor may redact provisions of the policies that are not relevant to the insurance required by this Agreement.

14.8 County, Construction Agent and Contractor, each for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required hereunder, waive all rights against the other party and any of the other party's contractors, subcontractors, agents and employees for damages or loss to the extent covered and paid for by any insurance maintained by the other party.

14.9 The County's Risk Management Division reserves the right, but not the obligation, to amend or place coverage for the Builder's Risk and Environmental Pollution Liability policies.

ARTICLE 15 – INDEMNIFICATION

15.1 Contractor shall indemnify and hold harmless Construction Agent and County, and their officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement. For the Preconstruction Services phases of the Work, consequential damages are capped at _____ (\$_____). For the Construction Services phase of the Work, consequential damages are capped at _____ (\$_____). Except as specifically provided herein, this Agreement does not require Contractor to indemnify Construction Agent or the County, or their respective employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against Construction Agent or the County by reason of any such claim or demand, Contractor shall, upon written notice from Construction Agent or the County, resist and defend such action or proceeding by counsel satisfactory to Construction Agent (with respect to Construction Agent) and the County (with respect to the County).

15.2 The indemnification provided above shall obligate Contractor to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at Construction Agent's and the County's option, any and all claims of liability and all suits and actions of every name and description covered by Section 15.1 above that may be brought against Construction Agent or the County whether performed by Contractor, or persons employed or utilized by Contractor.

ARTICLE 16 - PERFORMANCE AND PAYMENT BOND AND QUALIFICATIONS OF SURETY

16.1 Within fifteen (15) calendar days of the Effective Date of this Agreement, Contractor shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached hereto as **Forms 5 and 6**. Each Bond shall be maintained in the amount of one hundred percent (100%) of the GMP guaranteeing to Construction Agent and the County, as dual obligees under such Bonds, the completion and performance of the Work covered in such Agreement as well as full payment of all suppliers, material providers, laborers, or Subcontractors employed pursuant to this Project. Each Bond shall be with a surety company which is qualified pursuant to Section 16.3. Each Bond shall continue in effect for one year after Final Completion and acceptance of the Work with liability equal to one hundred percent (100%) of the GMP, or an additional bond shall be conditioned that Contractor will, upon notification by Construction Agent, correct any defective or faulty Work or materials which appear within one year after Final Completion.

Pursuant to the requirements of Section 255.05, Florida Statutes, Contractor shall ensure that the bond(s) referenced above shall be recorded in the public records of Broward County and provide Construction Agent and the County with written evidence of such recording.

16.2 Alternate Form of Security: In lieu of a Performance Bond and a Payment Bond, Contractor may furnish alternate forms of security which may be in the form of cash, money order, certified check, cashier's check, or unconditional letter of credit in **Form 00735** attached hereto as **Form 8**. Such alternate forms of security shall be subject to the approval of Construction Agent and the County and for same purpose and shall be subject to the same conditions as those applicable above and shall be held by Construction Agent and the County for one year after Final Completion and acceptance of the Work by Construction Agent.

16.3 Qualifications of Surety:

16.3.1 Each bond must be executed by a surety company of recognized standing, authorized to do business in the state of Florida as surety, having a resident agent in the state of Florida, and having been in business with a record of successful continuous operation for at least five years.

16.3.2 The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised July 1, 1997 (31 CFR Section 223.10, Section 223.111). Further, the surety company shall provide Construction Agent and the County with evidence satisfactory to Construction Agent and the County that such excess risk has been protected in an acceptable manner.

16.3.3 The surety company shall hold a current Certificate of Authority with the Florida Office of Insurance Regulation.

16.3.4 The surety company shall have at least the following minimum ratings:

Amount of Bond	Policy Holder's Ratings	Financial Size Category
500,001 to 1,000,000	A,A-	Class I
1,000,001 to 2,000,000	A,A-	Class II
2,000,001 to 5,000,000	A	Class III
5,000,001 to 10,000,000	A	Class IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class VI
50,000,001 or more	A	Class VII

ARTICLE 17 - INDEPENDENT CONTRACTOR

In performing its obligations hereunder, Contractor shall be deemed an independent contractor and not an agent or employee of the Construction Agent or the County. 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 this Agreement, unless the Contract Documents give other specific instructions concerning these matters.

ARTICLE 18 - PROJECT RECORDS AND RIGHT TO AUDIT

18.1 Contractor shall preserve all Records (as defined herein) pertinent to this Agreement for the required retention period specified by Florida law or for a minimum period of three (3) years after Final Completion, or whichever is longer. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the records shall be retained until resolution of the audit findings.

18.2 Records for all contracts, specifically including, but not limited to, lump sum contracts (i.e., fixed-price or stipulated sum contracts), unit price, cost-plus, or time and materials contracts, with or without guaranteed maximum (or not-to-exceed) amounts shall, upon reasonable notice, be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. Such audits may be performed by any Construction Agent or County representative or any outside representative engaged by Construction Agent or the County for the purpose of examining such records. Construction Agent, the County, or each of their designees, may conduct such audits or inspections throughout the term of this Agreement and for a period of three years after Final Completion, or longer if required by law. Construction Agent's or County's representatives may (without limitation) conduct verifications such as counting employees at the Project site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Contractor employees, field and agency labor, Subcontractors, and vendors.

Contractor's "**Records**" as referred to herein shall include any and all information, materials and data of every kind and character (hard copy, as well as computer readable data if it can be made available), including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers, and memoranda, and any and all other agreements, sources of information and matters that may in Construction Agent's or County's judgment have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by any Contract Document. Such records shall include written policies and procedures; time sheets; payroll registers; payroll records; cancelled payroll checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); backcharge logs and supporting documentation; invoices and related payment documentation; general ledger, information detailing cash and trade discounts earned, insurance rebates and dividends; and any other Contractor records which may have a bearing on matters of interest to the Construction Agent

or the County in connection with the Contractor's dealings with the Construction Agent and the County to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- a) Compliance with Contract Documents
- b) Compliance with the County's code of ethics
- c) Compliance with Agreement provisions regarding the pricing of change orders
- d) Accuracy of Contractor representations regarding the pricing of invoices
- e) Accuracy of Contractor representations related to claims submitted by the Contractor including Subcontractors, or any of its other payees.

Construction Agent's and the County's representative(s) shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement. Construction Agent, the County or each of their designees, shall have the right to audit, review, examine, inspect, analyze, and make copies of all written, electronic, or other form of Records, as described herein, in its original or written form, at a location within Broward County, during the term of the Agreement or its required retention period. Contractor agrees to allow the Construction Agent, the County, each of their designees, access to all of its Records, facilities, and current or former employees deemed necessary by Construction Agent or the County. Each of the Construction Agent and the County reserves the right to conduct such audit or review at Contractor's place of business, if necessary, with seventy-two (72) hours advance notice. Contractor agrees to provide adequate and appropriate work space.

In addition to the normal documentation Contractor typically furnishes to the Construction Agent, in order to facilitate efficient use of Construction Agent and the County resources when reviewing and/or auditing Contractor's billings and related reimbursable cost records, Contractor agrees to furnish (upon request) the following types of information in the specified computer readable file format(s):

Type of Record	File format
Monthly Job Cost Detail	.pdf and Excel
Detailed Job Cost History To Date	.pdf and Excel
Monthly Labor Distribution detail (if not already separately detailed in the Job Cost Detail)	.pdf and Excel
Total Job to date Labor Distribution detail (if not already included in the detailed Job Cost History to date)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the Project	.pdf
Daily Foreman Reports listing names and hours and tasks of personnel who worked on the Project	.pdf
Daily Superintendent Reports	.pdf
Detailed Subcontract Status Reports (showing original subcontract value, approved subcontract change orders, Subcontractor invoices,	.pdf and Excel

payment to Subcontractors, etc.	
Copies of Executed Subcontracts with all Subcontractors	.pdf
Copies of all executed Change Orders issued to Subcontractors	.pdf
Copies of all documentation supporting all reimbursable job costs (Subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

18.3 Contractor shall require all payees (examples of payees include Subcontractors, material suppliers, insurance carriers, etc.) to comply with the provisions of this article by including the requirements hereof in a written agreement between Contractor and payee. Contractor will ensure that all payees (including those entering into lump sum contracts) have the same right to audit provisions contained in this Agreement.

18.4 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Construction Agent's or the County's disallowance and recovery of any payment reliant upon such entry.

18.5 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to Construction Agent or the County (of any nature) by the Contractor and/or the Contractor's Subcontractors in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, the reasonable actual cost of the Construction Agent's or County's audit shall be reimbursed to the Construction Agent and the County by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed thirty (30) calendar days) from presentation of Construction Agent 's or County's findings to Contractor.

ARTICLE 19 - SURVEY

As required by the technical specifications (or, in absence of technical specification requirements prior to submission of the final Application for Payment), Contractor shall furnish final surveys in electronic file, AUTOCAD (latest version) format utilizing CAD Standards as designated by Construction Agent, in addition to one (1) complete set in Adobe PDF format and two (2) sets of hard copy, showing the exact locations of all structures and underground site utilities installed by Contractor, including all water, sewer, gas, fuel, telephone, security and electric lines and main, and locations of all easements for such utilities then existing. Such surveys shall be prepared, signed, and sealed by a licensed Florida surveyor who shall certify that the Work is installed and erected entirely upon the Project site and within the building restriction lines, if any, and does not overhang or encroach upon any easement or right-of-way of others.

ARTICLE 20 - OCCUPATIONAL HEALTH AND SAFETY

20.1 In compliance with Chapter 442, Florida Statutes, as amended, any toxic substance listed in Section 38F-41.03, Florida Administrative Code, delivered as a result of this Project must be

accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer. The MSDS must include the following information:

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

20.1.2 The hazards or other risks in the use of the toxic substance, including: (1) the potential for fire, explosion, corrosion, and reaction; (2) the known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and (3) the primary routes of entry and symptoms of overexposure.

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

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

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

20.1.6 The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

20.2 Contractor agrees that it shall not knowingly transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined herein in Section 20.5), except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not knowingly cause any release of hazardous substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws.

20.3 In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor reasonably believes to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in violation of any applicable Environmental Laws, Contractor shall immediately stop Work in the area affected and report the condition to the Construction Agent, the Project Manager and the Consultant in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of the Construction Agent, the Project Manager and the Consultant if in fact a Hazardous Substance has been encountered and has not been rendered harmless.

20.4 Construction Agent, through the Project Manager, may direct Contractor by utilization of Construction Agent's Allowance Account funds to remediate and/or render harmless the Hazardous Substance in accordance with any applicable permits then in existence, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such direction or if Contractor cannot obtain the appropriate insurance. If Contractor is not so

directed, Contractor shall not be required to resume Work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

20.5 For purposes of this Agreement, the term "**Hazardous Substance**" shall mean and include, but shall not be limited to, any element, constituent, chemical, substance, compound, or mixture, which are defined in or included under or regulated by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), the Clean Water Act (CWA), the Clean Air Act (CAA), and the Marine Protection Research and Sanctuaries Act (MPRSA), the Occupational Safety and Health Act (OSHA), the Superfund Amendments and Reauthorization Act of 1986 (SARA), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively herein as "**Environmental Laws**"). It is Contractor's responsibility to comply with this article based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

20.6 Safety and Protection: As between Construction Agent and Contractor, Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Project. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to: (1) all employees on the Project site and other persons who may be affected thereby; (2) all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project site; and (3) other property at the Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of construction.

20.7 Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and utilities when prosecution of the Work may affect them. All damage, injury, or loss to any property caused directly or indirectly, in whole or in part, by Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by Contractor. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work achieves Final Completion and acceptance by Construction Agent.

20.8 Contractor shall designate a responsible member of its organization at the Work site whose duty shall be the prevention of accidents. This person shall be Contractor's Superintendent unless otherwise designated in writing by Contractor to Construction Agent, Project Manager and Consultant.

ARTICLE 21 - PERMITS, LICENSES, AND IMPACT FEES

21.1 Pursuant to the Public Bid Disclosure Act, EACH LICENSE, PERMIT, OR FEE A CONTRACTOR WILL HAVE TO PAY THE COUNTY BEFORE OR DURING CONSTRUCTION OR THE PERCENTAGE METHOD OR UNIT METHOD OF ALL LICENSES, PERMITS, AND FEES REQUIRED BY THE COUNTY AND PAYABLE TO THE COUNTY BY VIRTUE OF THIS CONSTRUCTION AS PART OF THE CONTRACT ARE AS FOLLOWS: Occupational Licenses must be in effect as required by Florida Statutes Section 205.065, and must be submitted within fifteen (15) calendar days of execution of this Agreement. Licenses, permits and fees which may be required by the state of Florida, state agencies or by other local governmental entities are not included in the above.

21.2 Contractor shall secure and County will pay for the master building permit. Except as otherwise provided by the Contract Documents, all trade permits, sub-permits, and licenses required by federal, state or local laws, rules and regulations necessary for the prosecution of the Work undertaken by Contractor pursuant to this Agreement shall be secured and paid for by Contractor. It is Contractor's responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the Work to be performed and valid for the jurisdiction in which the Work is to be performed for all persons working on the Project for whom a Certificate of Competency is required.

21.3 Impact fees levied by any municipality shall be paid by the County.

21.4 Contractor shall notify the Construction Agent and Project Manager in writing of all conflicts between the Contract Documents and any laws, ordinances, rules, regulations and restrictions that come to the attention of Contractor. If Contractor performs any of the Work knowing it to be contrary to any such laws, ordinances, rules, regulations, or restrictions and fails to give the Construction Agent and Project Manager written notice thereof prior to performance thereof, Contractor shall bear all costs, liabilities and expenses arising therefrom.

21.5 Contractor shall be responsible for obtaining all necessary licenses, building and other permits, and similar authorizations from governmental authorities required or necessary to perform its obligations hereunder, and shall give all notices required by, and otherwise comply with, all applicable laws, ordinances, rules, regulations, and restrictions.

ARTICLE 22 - PERSONNEL

22.1 All personnel used or employed by Contractor in the performance of the Work shall be qualified by training and experience to perform their assigned tasks. At the request of the Construction Agent or the Consultant, Contractor shall not use in the performance of the Work any personnel deemed by the Construction Agent, Project Manager or the Consultant to be incompetent, careless, unqualified to perform the Work assigned to that person him, or otherwise unsatisfactory to the Construction Agent, Project Manager or the Consultant.

22.2 Contractor shall employ only such labor, and engage Subcontractors that employ only such labor, as will not delay or interfere with the speedy and lawful progress of the Project, and as will be acceptable to and work in harmony with all other workers employed on the Project site or on any other building, structure, or other improvement which Contractor or any other contractor may then be erecting or altering on behalf of the Construction Agent. Contractor shall not employ any labor that will interfere with labor harmony at the Project site or with the introduction and storage of materials and the execution of Work by other contractors or by Subcontractors.

22.3 Contractor shall furnish the Construction Agent, Project Manager and Consultant on request résumés of Contractor's key personnel involved in the day-to-day Work on the Project.

22.4 Wage Rate Ordinance:

22.4.1 The rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in a like construction industry as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276(a)). The Prevailing Wage Determination applicable to the Work is attached hereto as Exhibit 3.

22.4.2 All mechanics, laborers, and apprentices, employed or working directly upon the Project site shall be paid in accordance with the above referenced wage rates. Contractor shall post notice of these provisions at the Project site in a prominent place where it can be easily seen by the workers.

22.4.3 If the Parties cannot agree on the proper classification of a particular class of laborers or mechanics or apprentices to be used, Construction Agent or Project Manager shall submit the question, together with its recommendation, to the Architect for final determination.

22.4.4 In the event it is found by Construction Agent or Project Manager that any laborer, mechanic, or apprentice employed by Contractor or any Subcontractor directly on the Project site has been or is being paid at a rate of wages less than the rate of wages required by 40 U.S.C. 276(a), Construction Agent may (1) by written notice to Contractor terminate its right to proceed with the Work or such part of Work for which there has been a failure to pay said required wages, and (2) prosecute the Work or portion thereof to completion. Contractor and its sureties shall be liable to Construction Agent and the County for any excess costs occasioned to Construction Agent or the County thereby.

22.4.5 Contractor shall maintain payrolls and basic records relating thereto during the course of the Work and shall preserve such records for a period of three (3) years, or required retention period, whichever is longer, thereafter for all laborers, mechanics, and apprentices working at the site of the Work. Such records shall contain: the name and address of each such employee; its current classification; rate of pay (including rates of

contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.

22.4.6 Contractor shall submit with each requisition for payment a signed and sworn "Statement of Compliance" attesting to compliance with the Davis-Bacon Act as set forth in Form 00922 attached hereto as **Form 2**.

22.4.7 The County may withhold or cause to be withheld from Contractor so much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, watchpersons, and guards employed by Contractor or any Subcontractor on the Work, the full amount of wages required by the Agreement.

22.4.8 If Contractor or any Subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the Work all or part of the wages required by the Agreement, Construction Agent may, after written notice to Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

ARTICLE 23 - CONTRACTOR'S WARRANTIES

23.1 Contractor warrants to Construction Agent and the County that all materials and equipment under this Agreement will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects, and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized by Construction Agent, Project Manager, the Architect and Consultant, may be considered defective.

23.2 Contractor shall collect and transmit to the Construction Agent any and all manufacturer's warranties and manufacturer's guarantees specified in the Contract Documents. The obligation and liability of Contractor and/or its Surety is limited to the collection and proper transmittal of these warranties and guarantees to Construction Agent and the County.

23.3 Contractor further represents and warrants:

23.3.1 It is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to perform this Agreement; that it is able to furnish the materials, and services; that it is experienced in and competent to perform the Work contemplated by this Agreement; and it is qualified to do the Work herein and is authorized to do business in the state of Florida.

23.3.2 It holds a license, permit or other special license to perform the services included in this Agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license.

23.3.3 The Work shall be performed in a good and professional manner, free from defects in materials and execution, and that all materials shall be new and approved by or acceptable to the Architect, the Construction Agent, the Project Manager and the Consultant, except as otherwise expressly provided for in the Contract Documents.

23.4 Contractor's express warranties herein shall be in addition to, and not in lieu of, any other warranties or remedies the Construction Agent and the County may have under this Agreement and law.

ARTICLE 24 - DEFECTIVE WORK

24.1 The Architect, Construction Agent and the County's designee shall have the authority to reject or disapprove Work which is found to be defective. If required by the Architect or the Construction Agent or the County's designee, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with non-defective Work. Contractor shall be responsible for all direct, indirect and consequential costs of such removal or corrections including costs of testing laboratories and personnel.

24.2 Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Construction Agent, Project Manager, the Architect, the Consultant or the County's designee, Construction Agent shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary at Contractor's expense. Any expense incurred by Construction Agent in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to Contractor and deducted from the GMP, or may be charged against the Performance Bond. In the event of failure of Contractor to make all necessary repairs promptly and fully, Construction Agent may declare a default.

24.3 If, within one (1) year after the date of Final Completion or such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from Construction Agent, shall promptly correct the defect(s) and/or nonconformance(s) within the time specified by Construction Agent without cost to Construction Agent. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents and any claim regarding latent defects.

24.4 Failure by Construction Agent or the Architect to reject any defect and/or nonconformance in the Work shall not in any way prevent later rejection when such defect and/or nonconformance is discovered, or obligate Construction Agent, the Architect or the County to accept or pay for the Work.

24.5 Contractor shall (i) replace any part of the Work that fails to conform with the requirements of this Agreement that appear during progress of the Work on the Project; (ii)

remedy any defects in the Work due to faulty materials or workmanship which appear within a period of one (1) year from Final Completion of the Work or portions thereof hereunder or within such longer period of time as may be set forth in the Contract Documents or as may be required by law; and (iii) replace, repair, or restore any parts of the Project or furniture, fixtures, equipment or other items placed therein (whether by the Construction Agent or any other party) that are injured or damaged by any such parts of the Work that do not conform to the requirements of this Agreement or are due to defects in the Work. This article shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor or Subcontractor of the Construction Agent unless Contractor is acting in such capacity or capacities.

24.6 If the Construction Agent and Contractor deem it inexpedient to require the correction of Work damaged or not performed in accordance with the Contract Documents, an equitable deduction from the GMP shall be made by agreement between Contractor and the Construction Agent, and if required, the County. Until such settlement, the County may withhold such sums as the County deems just and reasonable from moneys, if any, due Contractor. If no monies are held by the County, reimbursement shall be made to the County within thirty (30) calendar days by Contractor.

ARTICLE 25 - CONSTRUCTION AGENT 'S RIGHT TO TERMINATE CONTRACT

25.1 If Contractor fails to begin the Work within ten (10) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or performs the Work unsuitably, or causes it to be rejected as defective and unsuitable, or discontinues the prosecution of the Work pursuant to the accepted schedule, or fails to perform any material term set forth in the Contract Documents, or becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Construction Agent may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same. If Contractor, within a period of ten (10) calendar days after such notice, does not proceed in accordance therewith, then Construction Agent may upon written certificate from Construction Agent of the fact of such delay, neglect, or default and Contractor's failure to comply with such notice, terminate the services of Contractor, exclude Contractor from the Project site and take the prosecution of the Work out of the hands of Contractor, and appropriate or use any or all materials and equipment that are an integral part of the Work on the Project site as may be suitable and acceptable. In such case, Contractor shall not be entitled to receive any further payment until the Project is completed. In addition, Construction Agent may enter into an agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in Construction Agent's sole opinion shall be required for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in Construction Agent's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by Construction Agent or the County, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In case the

damages and expenses so incurred by Construction Agent or the County shall exceed the unpaid balance, then Contractor shall be liable and shall pay to the County the amount of said excess.

25.2 If, after Notice of Termination of Contractor's right to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of Construction Agent and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth below.

25.3 Termination for Convenience: This Agreement may be terminated for convenience in writing by Construction Agent upon ten (10) calendar days' written notice to Contractor (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all Work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. Payment shall include reasonable profit for Work and/or services performed. No payment shall be made for profit for Work and/or services that have not been performed. Contractor acknowledges and agrees that it has received good, valuable, and sufficient consideration from Construction Agent and the County, the receipt and adequacy of which is hereby acknowledged by Contractor, for Construction Agent's right to terminate this Agreement for convenience.

25.4 Upon receipt of Notice of Termination, Contractor shall promptly discontinue all affected Work unless the Notice of Termination directs otherwise and deliver or otherwise make available to Construction Agent, Project Manager and the Consultant all data, drawings, specifications, reports, estimates, summaries, and such other information as may have been required by the Contract Documents whether completed or in process.

25.5 Notice of Termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the Construction Agent, which the Construction Agent deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

25.6 In the event this Agreement is terminated for any reason, any amounts due Contractor shall be withheld by the County until all documents are provided to Construction Agent, Project Manager and the Consultant as provided herein.

ARTICLE 26 - MISCELLANEOUS

26.1 Public Entity Crime Act: Contractor represents that it is familiar with the requirements and prohibitions of the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Contractor further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of

money involved or whether Contractor has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, Construction Agent shall have the right to immediately terminate this Agreement and recover all sums paid to Contractor under this Agreement.

26.2 Ownership of Contract Documents: Drawings, specifications, designs, models, photographs, reports, surveys, and other data submitted by Contractor provided in connection with this Agreement are and shall remain the property of the County whether the Project for which they are made is completed or not. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by Contractor shall become the property of the County and shall be delivered by Contractor to Construction Agent, Project Manager and the Consultant within seven (7) calendar days of termination of the Agreement by either Party. Any compensation due to Contractor shall be withheld until all documents are received as provided herein.

26.3 Contractor's Representative: Contractor shall advise the Construction Agent, in writing, of any limitations on the authority of Contractor's representative; otherwise, Contractor's representative shall be considered to have full authority to execute any and all instruments requiring Contractor's signature and to act on behalf of Contractor with respect to all matters arising out of this Agreement.

26.4 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents which cannot be resolved by mutual agreement of Construction Agent and Contractor shall be submitted to the Architect for resolution. When either Party has determined that a disputed question, claim, difficulty or dispute is at an impasse that Party shall notify the other Party in writing and submit the question, claim, difficulty or dispute to the Architect for resolution. The Parties may agree to a proposed resolution at any time without the involvement and determination of the Architect.

26.4.1 The Architect shall notify Construction Agent and Contractor in writing of the Architect's decision within twenty-one (21) calendar days from the date of the submission of the question, claim, difficulty or dispute, unless the Architect requires additional time to gather information or allow the Parties to provide additional information. The Architect's estimates and decisions upon all questions, claims, difficulties and disputes shall be final and binding.

26.4.2 All nontechnical administrative disputes (such as billing and payment and Small Business reporting issues) shall be determined by Construction Agent.

26.4.3 During the pendency of any dispute and after a determination thereof, Contractor, the Architect, and Construction Agent shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate

means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall proceed diligently with performance of this Agreement and the County shall continue to make payments for undisputed amounts in accordance with the Contract Documents.

26.4.4 In the event the determination of a dispute by the Architect under this article is unacceptable to any of the Parties hereto, the Party objecting to the determination must notify the other Party, including the Construction Agent, in writing within ten (10) calendar days of receipt of the written determination. The notice must state the basis of the objection and the objecting Party's proposed resolution. If notice is given by Contractor, it must be accompanied by a statement that any Contract Price adjustment claimed is the entire adjustment to which Contractor has reason to believe it is entitled to as a result of the question, claim, difficulty or dispute. Resolution of such dispute shall be made by the Construction Agent or designee. The Construction Agent's decision shall be final and binding on the Parties subject to judicial review.

26.4.5 For any disputes which remain unresolved, within sixty (60) calendar days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes. Mediation shall be held in Broward County, Florida. A mediator shall be mutually agreed upon by the Parties. The costs of mediation shall be borne equally by the Parties hereto. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under applicable law. If a Party objecting to a determination, fails to comply in strict accordance with the requirements of this article, said Party specifically waives all of its rights provided hereunder, including its rights and remedies under applicable law.

26.5 Notices: All notices to be given hereunder shall be in writing, and may be given by depositing the same in the United States Mail addressed to the Party to be notified, postage prepaid, return receipt requested, or by sent by commercial express carrier with acknowledgment of delivery, or by hand delivery, with a simultaneous copy sent via electronic mail, addressed to the Party for whom it is intended at the last place specified. All notices to be given to the Parties hereto shall be sent to or made to the addresses as shown in the Summary of Terms and Conditions. The place for giving notice shall remain the same as set forth herein unless changed in the manner provided in this Section.

26.6 EEO Compliance:

26.6.1 No Party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Contractor shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 CFR Parts 23 and 26. Failure by Contractor to carry out any of the requirements of this Section shall constitute a material breach of this Agreement, which shall permit the Construction

Agent to terminate this Agreement or to exercise any other remedy provided under this Agreement, or under applicable law, with all of such remedies being cumulative.

26.6.2 Contractor shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by Construction Agent, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable regulations, guidelines, and standards. In addition, Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

26.6.3 By execution of this Agreement, Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. Construction Agent hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle Construction Agent to terminate this Agreement and recover from Contractor all monies paid by Construction Agent pursuant to this Agreement, and may result in debarment from the County's competitive procurement activities.

26.7 The CBE Program:

26.7.1 The CBE Program, which is implemented under the Broward County Business Opportunity Act of 2012 (Broward County Ordinance No. 2012-33, as may be amended from time to time), referred to as the "Act", provides for the establishment and implementation of CBE participation goals and initiatives. In contracting for this Project, Construction Agent agrees to require the Contractor to comply with all applicable requirements of the CBE Program in the award and administration of this Agreement. The failure by the Contractor to carry out any of the CBE Program requirements shall constitute a material breach of this Agreement. Construction Agent acknowledges that the Broward County Board of County Commissioners, acting by and through the Director of the Broward County Office of Economic and Small Business Development ("OESBD"), may make minor administrative modifications to the CBE Program which shall become applicable to the Contractor if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided by the County to Construction Agent.

26.7.2 The CBE participation goal established by OESBD for the Project is twenty-eight percent (28.0%). The Contractor hereby commits to achieving this CBE participation goal for the Project. The County and Construction Agent agree that subcontract awards to CBE firms are crucial to the achievement of the Project's CBE participation goal. The Contractor shall provide that each CBE firm utilized on the Project to meet the participation goal is certified by OESBD. In an effort to assist the County in achieving its established goal for the Project, the Contractor agrees to make good faith efforts to meet the committed CBE participation goal, and to fill out CBE Utilization Reports and obtain letters of interest in the forms attached hereto as Exhibit and Exhibit respectively.

26.8 Workforce Investment Program: Excluding Preconstruction Services or any other services that are not included in the Direct Construction Cost, the remainder of this Agreement constitutes a "Covered Contract" under the Broward Workforce Investment Program, Broward County Administrative Code Section 19.211 ("Workforce Investment Program"), as may be amended. For the Covered Contract portion of this Agreement, Contractor affirms it is aware of the requirements of the Workforce Investment Program and agrees to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth therein, including by (a) publicly advertising any vacancies that are the direct result of this Agreement (whether those vacancies are with Contractor or its Subcontractors) exclusively with CareerSource Broward for at least five (5) business days and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program; and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of the Covered Contract portion of this Agreement. Until at least one year after the conclusion of this Agreement, Contractor shall maintain and make available to Construction Agent and the County's designee upon request all records documenting Contractor's compliance with the requirements of the Workforce Investment Program, and shall submit the required Workforce Investment Reports to the Construction Agent and the County's designee annually by January 31 and within thirty (30) calendar days after the conclusion of this Agreement. Failure to demonstrate good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal for the Covered Contract portion of this Agreement shall constitute a material breach of this Agreement.

26.9 Hurricane And Disaster Preparedness

26.9.1 Pre-Hurricane and Disaster Provisions: During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning or alert, Contractor, except as specified below, shall take all reasonable precautions necessary to secure the Project site in response to all threatened storm events, regardless of whether the Construction Agent or Consultant has given notice of same. Compliance with any specific hurricane warning or alert precautions will not constitute additional work. Suspension of the work caused by a threatened or actual storm event, regardless of whether the Construction Agent has directed such suspension, will entitle Contractor to additional Contract Time as non-compensable, excusable delay, and shall not give rise to a claim for compensable delay. At the discretion of Construction Agent, Contractor shall be reimbursed actual documented expenses for materials and labor incurred due to hurricane preparations that are outside of the normal daily General Conditions costs.

26.9.2 Post-Hurricane and Disaster Provisions: The County may issue, through its Director of Public Works or the Construction Agent, Construction Change Directives or other enabling documents to mobilize Contractor and its Subcontractors in the aftermath of a hurricane, natural disaster or other emergency for the purposes of damage assessment and providing temporary and permanent repairs to County facilities (or other facilities as may be assigned by the County). Contractor shall mobilize upon mutual agreement of specific terms for this work.

In the immediate aftermath of a storm, natural disaster or other emergency, Contractor and Construction Agent shall establish communications to determine an assessment and recovery plan and to establish a preliminary list of emergency recovery activities that Contractor shall undertake. Contractor and Construction Agent shall utilize that preliminary list of emergency recovery activities to develop one or more Construction Change Directives for execution by Construction Agent and Contractor. Upon mutual agreement, Construction Agent shall issue the executed Construction Change Directives upon receipt of which, Contractor shall immediately undertake the emergency actions described therein.

Contractor shall mobilize personnel, Subcontractors, and equipment as necessary to complete the tasks required by a Construction Change Directive for hurricane or other disaster recovery.

The County shall issue Purchase Orders and other procurement documents as necessary to support of Construction Change Directives as issued by the Director of Public Works or Construction Agent.

Contractor shall maintain detailed records of the Work and provide full information required for evaluation and to substantiate costs and time adjustments as may be necessitated by these required changes in the Work.

Contractor shall coordinate invoicing and payment procedures for emergency recovery work with the County and Construction Agent to ensure expeditious payment and segregation of such payments from those applicable to the nonemergency Work required by this Agreement.

26.10 Third Party Beneficiaries: Neither Contractor nor Construction Agent intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

26.11 Conflicts: Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor agrees that none of its employees shall, during the term of this Agreement, serve as an adverse or hostile witness against Construction Agent in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of Construction Agent in any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding. Contractor agrees to prohibit its Subcontractors, by written contract, from having any conflicts as within the meaning of this section.

26.12 Joint Preparation: Preparation of this Agreement has been a joint effort of Construction Agent and Contractor and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

26.13 Drug-Free Workplace: It is a requirement of the County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Chapter 21.31(a) of the County Procurement Code. Execution of this Agreement by Contractor shall also serve as Contractor's required certification that it either has a drug-free workplace in accordance with Chapter 21.31(a) of the County Procurement Code.

26.14 Assignment: Contractor shall not assign this Agreement or subcontract it as a whole without the prior written consent of the Construction Agent and the County's designee; nor shall Contractor assign any monies due or to become due to it hereunder, without the prior written consent of the Construction Agent and the County's designee.

26.15 Waiver: No consent or waiver, express or implied, by either Party to this Agreement to or of any breach or default by the other in the performance of any obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other or future breach or default by such Party hereunder, nor deemed to be a modification of this Agreement. Failure on the part of any Party hereto to complain of any act or failure to act of the other Party or to declare the other Party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such Party hereunder, provided however this section shall not alter or amend the notice provisions set forth in the Agreement. Inspection by, payment by or tentative approval or acceptance by the Construction Agent or the County, as applicable, or the failure of the Construction Agent to perform any inspection hereunder shall not constitute a final acceptance of the Work or any part thereof and shall not release Contractor from any of its obligations hereunder.

26.16 Entire Agreement; Severability; Amendments: This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in the Contract Documents. Accordingly, the Parties agree that no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with Article 10. In the event any provision of the Contract Documents shall be found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining provision, term, covenant or condition of the Contract Documents shall continue to be effective.

26.17 Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

26.18 Governing Law, Venue, and Waiver of Jury Trial: THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF FLORIDA. ANY CONTROVERSIES OR LEGAL PROBLEMS ARISING OUT OF THIS AGREEMENT AND ANY ACTION INVOLVING THE ENFORCEMENT OR INTERPRETATION OF ANY RIGHTS HEREUNDER SHALL BE SUBMITTED EXCLUSIVELY TO THE JURISDICTION OF THE STATE COURTS OF THE SEVENTEENTH JUDICIAL CIRCUIT OF BROWARD COUNTY, FLORIDA, THE VENUE SITUS, AND SHALL BE GOVERNED BY THE LAWS OF THE STATE OF FLORIDA.

BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND CONSTRUCTION AGENT HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THE PROJECT. CONTRACTOR SHALL SPECIFICALLY BIND ALL SUBCONTRACTORS TO THE PROVISIONS OF THIS CONTRACT.

26.19 Truth in Negotiations: Contractor's compensation under this Agreement is based upon representations supplied to Construction Agent by Contractor, and Contractor certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. Construction Agent shall be entitled to recover any damages it incurs to the extent such representation is untrue.

26.20 E-Verify Certification: Where required by Florida Executive Order, Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of: (a) all persons employed during the contract term by Contractor to perform employment duties within Florida; and (b) all persons (including Subcontractors) assigned by Contractor to perform work pursuant to this Agreement with Construction Agent.

26.21 Scrutinized Vendor certification: This Agreement may be terminated for cause if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, as amended or if Contractor provides a false certification (Form 10) submitted pursuant to Section 287.135, Florida Statutes, as amended.

26.22 Representative or Designee of Construction Agent, Contractor and County: The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Construction Agent, upon Contractor's request, shall advise Contractor in writing of one (1) or more Construction Agent employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed. Contractor shall inform the Construction Agent in writing of Contractor's representative to whom matters involving the conduct of the Project shall be addressed. Construction Agent, upon Contractor's request, shall inform the Contractor in writing of the County's representative or designee to whom matters involving the conduct of the Project shall be addressed.

26.23 Interpretation: The language of this Agreement has been agreed to by both Parties to express their mutual intent and no rule of strict construction shall be applied against either Party

hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

26.24 Representation of Authority: Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full and legal authority.

26.25 Domestic Partnership Requirement: Contractor certifies and represents that it will comply with Construction Agent's Domestic Partnership Act (Section 16½-157 of the Broward County Code of Ordinances, as amended) during the entire term of this Agreement. The failure of Contractor to comply shall be a material breach of this Agreement, entitling Construction Agent or the County to pursue any and all remedies provided under applicable law including, but not limited to: (1) retaining all monies due or to become due Contractor until Contractor complies; (2) termination of this Agreement; and (3) suspension or debarment of Contractor from doing business with the County.

26.26 Regulatory Authority: In the event the County exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and ordinances shall be deemed to have occurred pursuant to the County's authority as a governmental body and shall not be attributable in any manner to Construction Agent as a Party to this Agreement.

26.27 Public Records: To the extent Contractor is acting on behalf of County, as stated in Section 119.0701, Florida Statutes, Contractor shall:

- a. Keep and maintain public records required by Construction Agent to perform the services under this Agreement;
- b. Upon request from Construction Agent or the County, provide Construction Agent with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that 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 record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the records are not transferred to Construction Agent or the County; and

d. Upon completion of this Agreement, transfer to County, at no cost, all public records in possession of Contractor upon termination of this Agreement or keep and maintain public records required by the County and the Construction Agent to perform the services. If Contractor transfers the records to the County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor keeps and maintains public records upon completion of this Agreement, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County or the Construction Agent upon request in a format that is compatible with the information technology systems of Construction Agent.

The failure of Contractor to comply with the provisions of this section shall constitute a material breach of this Agreement entitling Construction Agent to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to Construction Agent and the County's designee, who will be responsible for responding to any such public records requests. Contractor will provide any requested records to the County to enable the County to respond to the public records request.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, RELATING TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 468-3501, JORHERNANDEZ@BROWARD.ORG, 1850 ELLER DRIVE, SUITE 603, FORT LAUDERDALE, FLORIDA 33316.

26.28 Contractor shall be required to comply with all applicable written Broward County Port Everglades Department policy statements and directives ("**Port Everglades Security Program**") and all applicable federal, state, and local legal requirements, including without limitation, the following:

26.28.1 Contractor shall be responsible for compliance with federal, state, and local laws, rules and regulations, and such laws and regulations as may be imposed from time to time by the U.S. Coast Guard, U.S. Customs and Border Protection, Broward Sheriff's Office or other federal or state or local agencies, and by the County, with respect to seaport security, immigration, drug interdiction, and other import and export controls. Furthermore, Contractor, shall be responsible for complying with all applicable federal, state and local security-related measures required for this Project. Contractor's costs for complying with all such security-related measures shall be a covered Project cost and made a part of General Conditions Cost. Contractor shall cause its employees, representatives, business invitees, Subcontractors, and guests, to comply with the requirements of this article, including, but not limited to, all requirements for the Federal Transportation Worker Identification Credential ("TWIC"), and Port Everglades Business Purpose Cards, as applicable.

26.28.2 If as a result of the acts or omissions of Contractor, its Subcontractors, agents, employees, business invitees or guests, the Construction Agent incurs any fines and/or penalties imposed or any expense in enforcing the Port Everglades Security Program and/or any fines or penalties imposed or any expense in enforcing the rules and regulations of other applicable security agencies, then Contractor agrees to pay and/or reimburse to Construction Agent all such fines, penalties, costs and expenses, including all costs of administrative proceedings, court costs, and attorney's fees and all costs incurred by Construction Agent in enforcing this provision. Said costs and expenses, fines and penalties, shall not constitute Cost of the Work. Contractor further agrees to rectify any security deficiency caused by Contractor, its subconsultants, Subcontractors, agents, employees, business invitees or guests, or other deficiency as may be determined as such by the Construction Agent. In the event Contractor fails to remedy any such deficiency, the Construction Agent may do so at the cost and expense of Contractor. The Construction Agent reserves the right to take whatever action is necessary to rectify any such security deficiency or other deficiency. The provisions hereof shall survive the expiration or any other termination of this Agreement. Contractor shall include this provision in its contracts with its subconsultants and Subcontractors.

26.28.3 Consent to Search/Inspection: Contractor agrees that all persons and vehicles, cargo, goods and other personal property used in connection with the Project are subject to being inspected and searched when attempting to enter or leave Port Everglades. Contractor acknowledges and understands that the foregoing requirements are for the protection of users of the Seaport and are intended to reduce incidents of cargo tampering, thefts and other unlawful activities at the Port. For this reason, Contractor agrees that persons not consenting-to-search/inspection shall not be employed by the Contractor or Contractor's Subcontractor(s) or subconsultants for the Project in any position requiring access to the Port.

- 26.29 No Partnership or Joint Venture. This Agreement shall not constitute or make the Parties a partnership or joint venture or create any other joint relationship.
- 26.30 Material Terms. Contractor and Construction Agent agree that each requirement, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.
- 26.31 Amendments. No modification, amendment, addendum, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared and executed with the same formality as this Agreement by the Construction Agent and Contractor.
- 26.32 Jurisdiction; Venue and Waiver of Jury Trial. The Parties hereby irrevocably submit to the jurisdiction of Florida's state or federal courts in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agree that all claims in respect to such action or proceeding shall be heard and determined in Broward County, Florida, the venue site. The Parties agree that this Agreement shall be construed and interpreted

according to the laws of the state of Florida. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION THAT MAY ARISE UNDER THIS AGREEMENT, THE PARTIES HEREBY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY OF ANY SUCH LITIGATION.

- 26.33 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.
- 26.34 Opt Out of Florida Statute Chapter 558. The parties acknowledge and agree that the Project is a public transportation project therefore the parties agree that Chapter 558 shall not apply to this Agreement, the Contract Documents, or the Project. FOR THE AVOIDANCE OF DOUBT, EACH OF THE CONSTRUCTION AGENT AND CONTRACTOR EXPRESSLY AGREE TO OPT OUT OF THE REQUIREMENTS OF SECTION 558.001-558.005. ACCORDINGLY, THE CONSTRUCTION AGENT AND CONTRACTOR ACKNOWLEDGE AND AGREE THAT SUCH FLORIDA STATUTES SECTION 558.001 -558.005 SHALL NOT APPLY TO THE WORK, THE PROJECT OR THE CONTRACT DOCUMENTS FOR ALL PURPOSES.
- 26.35 Legal Fees and Expenses. Should any of the parties hereto institute any action or proceeding in court to enforce any provision hereof or for damages by reason of any alleged breach of any provision of this Agreement or for any other judicial remedy, the prevailing party shall be entitled to receive from the losing party all reasonable attorneys' fees and all court costs in connection with said proceeding.
- 26.36 Anti-Bribery. Each of the Construction Agent and Contractor represents, warrants and agrees with the other Party that it: (a) will comply with all anti-corruption laws applicable to its business operations; (b) has not and will not offer, promise, give or authorize the payment of anything of value (e.g. cash or cash equivalents, gifts, travel and entertainment, stock, offers of employment, etc.), directly or indirectly, to any Government Official (hereinafter defined) with the intention of inducing him or her to engage in improper or unlawful conduct or to secure an improper business advantage; (c) has not and will not make facilitation payments or "grease payments" to Government Officials or others in a position of authority to expedite routine non-discretionary government or lawful actions (e.g. processing permits, visas and licenses, scheduling inspections, clearing customs, etc.); and (d) has not and will not offer, promise, give, request, receive or accept anything of value, directly or indirectly, to or from any person for the purpose of influencing, inducing or rewarding the improper performance of an act or decision. For purposes of this clause, the term "**Government Official**" means any (a) officer or employee of government, department, agency, or instrumentality of a government (government-controlled enterprise); (b) officer or employee of a public international organization; (c) political party or party official; (d) candidate for political office; or (e) other person acting in an official capacity. The Construction Agent and Contractor agree that failure to comply with this section will constitute a material breach of this Agreement.

(Remainder of page is blank)

AGREEMENT BETWEEN ROYAL CARIBBEAN CRUISES LTD., As Construction Agent for BROWARD COUNTY AND _____.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Royal Caribbean Ltd., as Construction Agent for BROWARD COUNTY and CONTRACTOR, _____, signing by and through its Officers duly authorized to execute same.

CONSTRUCTION AGENT

ROYAL CARIBBEAN CRUISES LTD., As Construction Agent for, BROWARD COUNTY

By: _____
Name: _____
Title: _____

_____ day of _____, 2017

AGREEMENT BETWEEN ROYAL CARIBBEAN CRUISES LTD., As Construction Agent for BROWARD COUNTY AND _____.

CONTRACTOR

ATTEST:

(Secretary)

(Corporate seal)

By _____
(Signature & title)

(Typed name & title, as signed above)

_____ day of _____, 2017.

LIST OF EXHIBITS, FORMS & ATTACHMENTS

- Exhibit A-1: Scope of Services/Preconstruction Scope of Services
 - Attachment 1 Preliminary Project Schedule
 - Attachment 2 Electronic Media Submittal Requirements
 - Attachment 2A BIM Standards of Care
 - Attachment 3 Preliminary Scheduling Procedures
 - Attachment 4 Value Engineering Procedures
 - Attachment 5 Schedule of Values for Preconstruction Services
 - Attachment 6 Contractor's Subcontractor Award Recommendation
- Exhibit A-2 Construction Services
 - Attachment 1 Schedule of Values for Construction Services
- Exhibit A-3 Schedule of Job Classifications
- Exhibit B-E: Contractor's Estimated GMP
- Exhibit B-R: Contractor's Reconciled GMP
- Exhibit 1-E: Estimated Direct Construction Cost
- Exhibit 1-R: Reconciled Direct Construction Cost
- Exhibit 2-E: Estimated General Conditions Cost
- Exhibit 2-R: Reconciled General Conditions
- Exhibit 3: Prevailing Wage Determination
- Exhibit 4: List of Pricing Documents
- Exhibit 5: Statement of CBE Assurance
- Exhibit 6: Letter of Intent (CBE)
- Exhibit 7: Additional Security Requirements

- Form 1: Certificate of Substantial Completion
- Form 2: Form 00922: Statement of Compliance
Prevailing Wage Rate Ordinance No. 83-72
- Form 3: Final Certificate of Payment
- Form 4: Form of Final Receipt
- Form 5: Form of Performance Bond
- Form 6: Form of Payment Bond
- Form 7: Monthly (CBE) Utilization Report

- Form 8: Form 00735: Performance and Payment Guaranty form
Unconditional Letter of Credit
- Form 9: Form 00924: Certification of Payments to Subcontractors
- Form 10: Scrutinized Companies List Certification
- Form 11: Insurance Requirements

**TERMINAL 25 PROJECT
PORT EVERGLADES, FLORIDA
LIST OF EXHIBITS, FORMS & ATTACHMENTS**

- Exhibit A-1: Pre-Construction Scope of Services
 - Attachment 1 Preliminary Project Schedule
 - Attachment 2 Electronic Media Submittal Requirements
 - Attachment 2A BIM Standards of Care
 - Attachment 3 Preliminary Scheduling Procedures
 - Attachment 4 Value Engineering Procedures
 - Attachment 5 Schedule of Values for Preconstruction Services
 - Attachment 6 Contractor's Subcontractor Award Recommendation
 - Exhibit A-2 Construction Services
 - Attachment 1 Schedule of Values for Preconstruction Services
 - Exhibit A-3 Schedule of Job Classifications
 - Exhibit B-E: Contractor's Estimated GMP
 - Exhibit B-R: Contractor's Reconciled GMP
 - Exhibit 1-E: Estimated Direct Construction Cost
 - Exhibit 1-R: Reconciled Direct Construction Cost
 - Exhibit 2-E: Estimated General Conditions
 - Exhibit 2-R: Reconciled General Conditions
 - Exhibit 3: Prevailing Wage Determination
 - Exhibit 4: List of Pricing Documents
 - Exhibit 5: Statement of CBE Assurance
 - Exhibit 6: Letter of Intent (CBE)
 - Exhibit 7: Additional Security Requirements

 - Form 1: Certificate of Substantial Completion
 - Form 2: Form 00922: Statement of Compliance
Prevailing Wage Rate Ordinance No. 83-72
 - Form 3: Final Certificate of Payment
- Managing General Contractor Agreement
Terminal 25 Project, Port Everglades, Florida

- Form 4: Form of Final Receipt
- Form 5: Form of Performance Bond
- Form 6: Form of Payment Bond
- Form 7: Monthly (CBE) Utilization Report
- Form 8: Form 00735: Performance and Payment Guaranty form
Unconditional Letter of Credit
- Form 9: Form 00924: Certification of Payments to Subcontractors
- Form 10: Scrutinized Companies List Certification
- Form 11: Insurance Requirements

EXHIBIT A-1
SCOPE OF SERVICES
Preconstruction Services

1. The Project and Definitions

1.1. Project Description and Program

1.1.1. The following paragraphs and articles form a general description of the professional services required for preconstruction services in support of the Project. As such, it is not all-inclusive and the Construction Agent does not represent that it is a complete inventory of the professional services necessary to achieve the Construction Agent's goals for the Project. The following paragraphs represent the Construction Agent's anticipated minimum level of performance for Contractor but does not limit the professional services that may be required during the Project.

1.2. Project Description

1.2.1. Refer to the Summary of Terms and Conditions for the Project description and location.

1.3. Project Definitions

1.3.1. BIM - Building Information Modeling. This is the process of generating and managing a three dimensional representation file of the Project with integral specification data resulting in a Building Information Model that can be linked, networked or exchanged.

1.3.2. CAD / CADD – Computer-Aided Design or Computer-Aided Design and Drafting.

1.3.3. COBIE – Construction Operations Building Information Exchange. A data format focused on the delivery of subset non-geometric building information and specifications extracted from the Building Information Model.

1.4. Construction Agent's Project Data and Documentation

1.4.1. An architectural and engineering program and other related documents will be provided by Construction Agent or the Project Manager to provide Contractor with an overview of the Project as developed by Construction Agent and Contractor. These documents may include (if available to Construction Agent or the Project Manager) site surveys, soil boring/geotechnical reports and other data concerning the site and Project.

1.4.2. Construction Agent or Project Manager shall provide electronic copies of design documentation as necessary for Contractor's Basic Services (such as estimating,

scheduling and constructability reviews) to Contractor. Contractor shall provide its own hard copy documents if such are required for the provision of Contractor's services. Contractor shall be responsible for printing, reproduction and photography for documents required as part of preparing Contractor's deliverables for Basic Services as described in further detail below. Contractor is encouraged to utilize electronic copies of drawings where possible to reduce the need for printed hard copies of documents.

2. Preconstruction Basic Services

2.1. Basic Services

- 2.1.1. The tasks and services listed below in Article 3, Preconstruction Tasks, in addition to those specified in the Agreement, related to the Project and other professional services, as necessary, to meet the needs of Construction Agent and the County for the Project.
- 2.1.2. The listed tasks and services shall not limit those Project-related tasks, activities or services that may be requested by the Construction Agent.

3. Preconstruction Tasks

3.1. General Requirements

- 3.1.1. Contractor agrees to:
 - 3.1.1.1. Provide complete preconstruction and other professional services set forth below and all necessary personnel, equipment and materials to perform services;
 - 3.1.1.2. Complete those preconstruction services in accordance with a Project schedule to be developed jointly between Construction Agent, Project Manager, the Architect, the County's designee and Contractor and finalized not later than twenty (20) calendar days following the effective date of the Limited Notice to Proceed with preconstruction services as issued by Construction Agent. **Attachment 1**, Preliminary Project Schedule, as attached to this **Exhibit A-1** is provided for Contractor's, Construction Agent's and the Project Manager's use in deriving Contractor's Project Schedule;
 - 3.1.1.3. Complete those preconstruction services in support of delivering the Project within the Construction Agent's established Guaranteed Maximum Price for the Project.
- 3.1.2. Contractor shall attend Project review and coordination meetings with representatives of Construction Agent, the Project Manager, the Architect and

the County's designee throughout the Design Phases of the Project. The frequency of such Project review and coordination meetings may vary at Construction Agent's discretion pending the status and progress of the Project and Contractor's preconstruction services. At each of these meetings, Contractor, Construction Agent, Project Manager, the Architect and the County's designee shall review the Project's budget, schedule, CBE Plan, Project phasing plan, Project sequencing plan and scope along with Contractor's development and progress to date on the respective preconstruction services and any special problems related to the continuing progress of the Project. For each Project meeting and as may be otherwise appropriate during this Project phase, Contractor shall provide schedules, estimates, reports and other documents sufficient to illustrate progress and the issues at hand for Construction Agent's review. Contractor shall not be entitled to claims for delays to the Project Schedule due to Contractor's failure to provide such documents.

- 3.1.3. Contractor (including representatives of each subconsulting / subcontracting firm engaged by Contractor to provide preconstruction services pursuant to this Agreement, if any), the Architect, Construction Agent, Project Manager and County's designee shall attend a "Preconstruction Services Kick-Off" meeting and a "Preconstruction Debriefing" meeting that will be scheduled by Construction Agent at the beginning and end of the Preconstruction Services. The Preconstruction Kick-Off meeting will provide a forum for the entire Project team to review Project goals, continuing Project issues, and review performance expectations for the Project. The Preconstruction Debriefing Meeting will provide a forum in which the entire Project team can provide feedback concerning team performance, communications, procedures, quality control and other related issues for the current and future projects.
- 3.1.4. Contractor shall attend other periodic coordination meetings as scheduled by Construction Agent or Project Manager. These meetings will be scheduled to address and coordinate specific design and planning issues for the Project. County's designee may attend these meetings to coordinate and communicate the County's functional requirements and preferences.
- 3.1.5. As public art is a component of the Project, Contractor, Construction Agent, Project Manager, the Architect and County's designee and the artist(s) selected by County shall attend periodic coordination meetings throughout the Project as scheduled by Construction Agent or Project Manager to address the incorporation of public art into the facility. These meetings will focus on the nature of the proposed artwork, the opportunities for integrating artwork into an efficient, economical building design, coordination of building systems and components with proposed artwork, coordination and documentation of artwork within the construction contract documents, and the artists' involvement and responsibilities during the construction process.

- 3.1.6. Contractor shall coordinate and develop processes with Construction Agent, Project Manager, the Architect and County's designee to facilitate the County in seeking to obtain certification under Leadership in Energy and Environmental Design (LEED) for New Construction and Major Renovations following the U.S. Green Building Council guidelines. Contractor shall attend periodic coordination meetings throughout the Project as scheduled by Construction Agent or Project Manager to address the implementation of LEED principles, practices and construction.
- 3.1.7. Contractor shall be required to submit various documents further defined below in both hardcopy and electronic media formats. Requirements for electronic media submittals are contained in **Attachment 2**, Electronic Media Submittal Requirements, below. Requests for deviations from those electronic media submittal requirements shall be submitted in advance by Contractor in writing for the consideration of Construction Agent, the Project Manager and County's designee.
- 3.1.8. Documents, electronic media and other materials submitted to Construction Agent by Contractor shall be retained by Construction Agent and County except as otherwise noted herein and are subject to the ownership provisions of this Agreement.
- 3.1.9. Contractor shall make complete document submittals as listed or described below. Contractor may request Construction Agent to allow incomplete or partial submittals with Contractor's demonstration of significant benefit to the Project. Such requests shall be made of Construction Agent in writing and at least fourteen (14) calendar days prior to the applicable submittal deadline. Approval of such requests shall be at the sole discretion of Construction Agent. Incomplete or partial submittals made without advance approval shall be returned to Contractor un-reviewed and unaccepted by Construction Agent and subject to any liquidated damages applicable as provided for elsewhere in this Agreement.

3.2. Administrative Requirements

- 3.2.1. Contractor shall confer with representatives of Construction Agent and Project Manager to verify and confirm the scope of Preconstruction Services, the status of the Project, the Architect's progress with its assigned professional services, and other administrative information required for the Project. These shall include:
 - 3.2.1.1. Contractor, Construction Agent, Project Manager, the Architect, and County's designee shall coordinate and establish a listing of Construction Agent, Project Manager and other representatives who will be providing information or feedback to Contractor during the

preconstruction process. Contractor shall prepare and distribute list including the Representative's name, title, organization, address, phone, alternative phone numbers (cellular/mobile, job site, etc.), fax and e-mail addresses. Contractor shall periodically review, update and coordinate this list with Construction Agent, Project Manager and County's designee throughout the preconstruction process.

- 3.2.1.2. Contractor, Construction Agent, Project Manager, the Architect and County's designee shall coordinate, establish and verify a chain of responsibility or decision making in the Project and functional organizations for use in later decision making during the preconstruction process and the subsequent construction phase(s).
- 3.2.1.3. Contractor shall obtain and mobilize any subcontractors/consultants or other specialists to provide technical or functional information as Construction Agent and Contractor mutually agree to be necessary to render the preconstruction services.
- 3.2.1.4. Contractor shall obtain Construction Agent's and the Architect's preliminary list of equipment and any special equipment, or equipment that requires custom fabrication or unique installation. Contractor shall advise and assist in Construction Agent's coordination of that list with requirements for construction to include review of integration of construction requirements into contract documents, Project scheduling, Project budget, and communication of related issues. When such special equipment is to be provided by County, pricing and specification of those items shall be responsibility of Construction Agent, Project Manager or the Architect.

3.3. Project Approvals Action Plan

- 3.3.1. Contractor shall confer with Construction Agent and the Architect to jointly develop a "Project Approvals Action Plan" for obtaining all site plan approvals, development orders, permits, licenses and other approvals from all agencies with jurisdiction over the Project and all utilities servicing any portion of the Project, including, without limitation, Florida Power & Light.
 - 3.3.1.1. This plan shall verify and further develop preliminary information that may have been developed by either Construction Agent or the Architect. Construction Agent or the Architect will make their preliminary documentation available to Contractor. Project Approvals Action Plan shall confirm and include a listing of those regulatory or jurisdictional agencies with authority over the Project, document submittal requirements, application and permit fees, anticipated review times, duration/expiration periods for any issued approval(s),

and the party responsible for making submittal of documents and fees related to any approval, review or licensure.

- 3.3.1.2. Contractor shall include scheduling information derived from the "Project Approvals Action Plan" into Project schedules further described below and shall coordinate with Construction Agent, Project Manager, County's designee and the Architect concerning optimum timing for submittals, corrections, reviews and other milestone dates/periods pertinent to the Project approvals process.
- 3.3.1.3. Contractor shall submit (5) copies of the Project Approvals Action Plan to Construction Agent prior to Architect's submittal of design development.
- 3.3.1.4. Upon discovery of changes to building codes, regulatory agencies and other jurisdictional requirements that impact the Project, Contractor shall advise Construction Agent and the Architect and modify the "Project Approvals Action Plan" on an as needed basis to ensure the Project's continued and future compliance with the process for obtaining jurisdictional approvals.

3.4. Project Approvals and Permits

- 3.4.1. With assistance from Construction Agent and the Architect, Contractor shall coordinate and make applications to obtain permits, approvals and authorizations from jurisdictional agencies with authority over the Project.
- 3.4.2. Contractor shall meet on an as-needed basis with jurisdictional agencies in order to clarify or explain submitted documents and to ascertain the scope and intent of review comments made by those jurisdictional agencies.
- 3.4.3. Contractor shall provide graphic and written documents as necessary to facilitate these jurisdictional reviews, including issuing revised drawings and specifications in response to review comments and other concerns generated by those jurisdictional agencies without additional cost to Construction Agent or the County.

3.5. Scheduling

- 3.5.1. Contractor shall provide Project Schedules as a part of its Preconstruction Services as outlined below. Project specific deviations or refinements of the requirements presented below may be allowed with advance written authorization of the Construction Agent.
- 3.5.2. Contractor shall develop a Detailed Project Schedule, utilizing critical path method (CPM) logic sequencing, reflecting the design (or remaining portion

thereof) and construction of all phases of the overall Project, including but not limited to Construction Agent's occupancy and outfitting of the facility, jurisdictional review periods, permitting process, final inspection, occupancy requirements, ordering and delivery/setup of furniture, fixtures and equipment, and work by other contractors/vendors (including County's own forces and any County procured vendors and contractors) as directed by Construction Agent.

3.5.3. Contractor shall utilize the completed Detailed Project Schedule, to develop a Project Control Schedule which shall be presented in a bar graph format. The purpose of the Project Control Schedule is to summarize the information contained in the CPM schedule in order to provide the Project team with a management tool and an overall Project visual aid to easily determine the schedule and status of the total Project. The information derived from these two schedules is to become part of Contractor's management plan developed by Contractor for the Project.

3.5.4. Storyboarding:

3.5.4.1. At the written request of the Construction Agent, Contractor shall facilitate and conduct, with Construction Agent, storyboarding and other activities delineated within Attachment 3, Preliminary Scheduling Procedure, as attached to this Exhibit A-1.

3.5.4.2. Storyboarding sessions shall include all pertinent project stakeholders as confirmed by Contractor with Construction Agent.

3.5.4.3. Within twenty (20) days of the effective date of Contractor's Limited Notice to Proceed, Contractor shall establish a preliminary storyboarding meeting in order to establish Project schedule goals and objectives.

3.5.4.4. Additional preconstruction phase storyboarding meetings shall be scheduled by Contractor, after consultation with Construction Agent and shall be completed not later than prior to the completion of the 100% Construction Documents by the Architect.

3.5.4.5. Contractor shall utilize information derived from these "storyboarding" meetings to incorporate Project team scheduling data from Contractor, and subcontractors, Construction Agent, Project Manager, County's designee and the Architect into the required Detailed Project Schedule and Project Control Schedule.

3.5.4.6. Contractor shall photographically document storyboarding results and provide a Microsoft Excel version of the final storyboarding sheets indicating tasks, entities responsible for those tasks and the timeline for accomplishment of those tasks. A preferred format for the Excel

documentation will be made available by Construction Agent. Contractor shall distribute photographic and Excel-based storyboarding documentation to all storyboarding participants.

- 3.5.5. Contractor shall submit to Construction Agent a minimum of two (2) hard copies of both the Detailed Project Schedule and the Project Control Schedule with electronic media copies of all schedules, reports, and other documentation making up those schedule documents, including, without limitation, a pdf copy in electronic format.
- 3.5.6. Contractor shall update and submit updated Detailed Project Schedule and Project Control Schedule with each pay application during Preconstruction Services and as may be requested by Construction Agent, Project Manager or the Architect.

3.6. Constructability Review

- 3.6.1. Contractor shall review and evaluate design and construction documents at Architect's 50% Construction Documents, 90% Construction Documents and 100% Construction Documents phases for clarity, consistency, completeness, coordination and ease of construction in order to achieve the overall objectives of the Project.
- 3.6.2. Contractor's review of the design and construction documents shall include the following activities:
 - 3.6.2.1. Conducting reviews of design and contract documents (drawings and specifications at their respective levels of development by Project phase) by preparing a written list with graphic illustrations where applicable of review comments with references to the location of information within the documents (drawing/detail number, spec page, or similar reference). Contractor may, at Contractor's option, prepare a "mark-up" set or partial set of design or contract documents in addition to the list of review comments to facilitate discussions of those comments by Contractor, the Architect, the Construction Agent, the Project Manager and the County's designee.
 - 3.6.2.2. Preparing and presenting a written report of review comments, constructability problems and concerns, including:
 - 3.6.2.2.1. Recommendations for improving document coordination, clarity and communication of construction requirements and technical construction information.
 - 3.6.2.2.2. Comments noting constructability issues derived from Contractor's review of design and contract documents.

- 3.6.2.2.3. Recommendations concerning construction administration, construction sequencing, means and methods, material selection and availability, system integration, field quality control and assurance, alternate construction methods/techniques and other construction related issues.
- 3.6.2.3. Attending workshop meetings with the Architect and the Construction Agent to review proposed changes and recommending the changes that are to be implemented for the Project.
- 3.6.2.4. Verifying and conducting final review of changes to the construction documents.
- 3.6.2.5. BIM Execution Plan. Construction documents will be developed using Building Information Modeling by the Architect to GSA Level of Development 300 and made available to Contractor for use and further development during the course of the Project. Contractor shall develop this model to GSA Level of development 500 in Phase II, with Facilities Management information made available to Construction Operations Building Information Exchange (COBIE) Standards. Contractor shall develop and coordinate a BIM Execution Plan, carry out clash detection analysis and complete preliminary virtual design and construction (VDC) activities as part of the Constructability Review.
- 3.6.3. Contractor shall submit to the Construction Agent one (1) unbound original and ten (10) plastic-comb bound hard copies of each constructability review report submittal and electronic media copies of all spreadsheets, reports, and other documentation making up the constructability review documents, including, without limitation, a pdf copy in electronic format.

3.7. Cost Estimating

- 3.7.1. Contractor shall provide one estimate for each design Phase as follows:
 - 3.7.1.1. 50% Construction Documents
 - 3.7.1.2. 90% Construction Documents
 - 3.7.1.3. 100% Construction Documents
- 3.7.2. Preparation of Construction Cost Estimates:
 - 3.7.2.1. Contractor shall estimate the cost of the major elements and subcomponents of the Project. The purpose of these Construction Cost Estimates is to verify Construction Agent's ability to complete the Project within the established estimated GMP. The cost information

derived from these estimates shall directly relate to Contractor's recommendations in the Constructability Reviews and (if authorized by Construction Agent) Value Engineering Report(s) relative to ways to reduce or control costs.

- 3.7.2.2. All estimates shall be structured to indicate Construction Agent's Guaranteed Maximum Price as comprised of the following price elements:
 - 3.7.2.2.1. Pre-Construction Services Cost
 - 3.7.2.2.2. Estimated Direct Construction Cost
 - 3.7.2.2.3. Estimated General Conditions Cost
 - 3.7.2.2.4. Estimated Fixed Fee
 - 3.7.2.2.5. Construction Agent's Allowance Account
- 3.7.2.3. Estimates shall be organized to provide a level of detail corresponding to the Construction Specification Institute's (CSI) organizational systems:
 - 3.7.2.3.1. Estimating based on preliminary assemblies information shall be organized according to the CSI's Unifomat system of assembly nomenclature.
 - 3.7.2.3.2. Estimates prepared for the Construction Documents phases shall be organized utilizing the CSI MasterFormat system Division Numbering and 6-digit section numbers as coordinated with or anticipating the Architect's development of the Project specifications. Estimates shall be provided for all Division's and specification sections pertinent to the Project within CSI's Masterformat structure.
- 3.7.2.4. The Construction Cost Estimate made at the 100% Construction Documents phase shall be made when the construction documents are "permit ready" with sufficient detail to permit issuance of a building permit and to obtain all required approval of all governmental authorities having jurisdiction over the Project. The 100% Construction Documents phase estimate shall be used as the basis for comparing subcontractor bids, negotiating the actual GMP for the Project and for monitoring status of the Project throughout the construction phase.

- 3.7.2.5. Each cost estimate submittal shall include an analysis of the Project's feasibility in terms of Construction Agent's Project budget and Construction Agent's full range of anticipated "Project" costs. In this capacity, Contractor shall coordinate with the Architect, the Construction Agent and the Project Manager in order to understand, assist in development of and represent those Project costs in the submitted cost estimates. Project costs may include administrative costs, costs of Construction Agent provided services/materials, jurisdictional and other fees, estimated costs of special consultants, costs for separate contractors, and other Construction Agent costs which comprise Construction Agent's Project budget.
- 3.7.3. Contractor shall submit to Construction Agent one (1) unbound and ten (10) plastic-comb bound hard copies of each estimate submittal and electronic media copies of all spreadsheets, reports, and other documentation making up the estimate documents, including, without limitation, a pdf copy in electronic format.

3.8. Prequalification and Identification of Subcontractors

- 3.8.1. Contractor shall identify potential subcontractor participants throughout the duration of the Project as necessary. Contractor agrees to participate in subcontractor or CBE workshops, seminars and open-houses as may be scheduled by Construction Agent from time to time in order to communicate the opportunities presented to subcontractors and CBE's by this Project.
- 3.8.2. Contractor shall coordinate and confirm detailed bidding requirements and procedures with Construction Agent during the design development stage of the Preconstruction Services.
- 3.8.3. Contractor shall prepare for Construction Agent's review, the statement of qualifications for all subcontract work for the Project. Construction Agent shall state any exceptions to the statement of qualifications within fourteen (14) calendar days after receipt. Contractor shall address any exceptions within seven (7) calendar days after receipt. Following Construction Agent's review and acceptance of Contractor's response to the exceptions, each statement of qualifications shall be posted on County Purchasing Division's website and other recognized local advertising means to solicit potential qualified subcontractor(s), vendor(s), and supplier(s) for the work.
- 3.8.4. Contractor shall prepare and assemble subcontractor(s), vendor(s), and supplier(s) pre-qualification evaluations. These evaluations shall include sufficient information for Contractor to determine if the subcontractor(s), supplier(s) and vendor(s) have qualifications, capability and capacity in all respects to perform work for the Project.

- 3.8.5. Not later than Contractor's submittal of the 50% Construction Documents constructability review, Contractor shall submit and present its subcontractor qualification evaluations in the form of an overview presentation and written report to be accepted by Construction Agent (prequalification report). The prequalification report shall list all subcontractors being considered, the Scope of Services recommended, the subcontractor's qualifications and past work history, the subcontractor's CBE certification status, and Contractor's recommendation concerning the use of the listed subcontractor. The prequalification report shall include Contractor's CBE Participation Plan as further described below.
- 3.8.5.1. Contractor shall provide a minimum of three (3) pre-qualified subcontractors for each portion of Work to be bid, unless Contractor can demonstrate to Construction Agent's satisfaction a verifiable unavailability of suitable Subcontractors and Contractor's good faith effort to obtain the required minimum number of prequalified subcontractors.
- 3.8.5.2. No portion of the Direct Construction Costs may be performed by a company or other entity, which is 51% or greater owned or controlled by Contractor or a parent entity in common with Contractor, except with Construction Agent and County's designee's written approval in advance and at Construction Agent and County's designee's sole discretion.
- 3.8.5.3. Contractor's submittal shall include (1) reproducible and five (5) hard copies of Contractor's prequalification report with electronic media copies of the report and all schedules, lists databases and other documentation referenced or included in the report, including, without limitation, a pdf copy in electronic format.
- 3.8.6. CBE Participation Plan:
- 3.8.6.1. Contractor's CBE Participation Plan shall identify CBE Subcontractor/ Subconsultant participants for the Project including both those firms utilized during the preconstruction phase and those that will be utilized during the construction phase(s). The CBE Participation Plan shall demonstrate that Contractor has committed to meet or exceed the CBE participation goals established for the Project, or demonstrate through accompanying documentation suitable to Construction Agent, the County's designee and OESBD that Contractor has made a good faith effort to meet the goal(s).
- 3.8.6.2. The CBE Participation Plan shall 1) provide a positive confirmation of Contractor's commitment to meet or exceed the CBE Participation

Goals established for the Project; 2) identify (by legal name, address, phone number and name of principal) each Broward County-certified CBE contemplated to subcontract for work on this Project; 3) indicate the nature of the CBE's contribution to the Project including a general description of the Scope of Services assigned to that CBE firm; and 4) include an original signed acknowledgement from each CBE indicating its intent and availability to serve as a subcontractor for construction services if the construction phase of the Project is awarded to Contractor.

3.8.6.3. Contractor shall periodically amend and resubmit its CBE participation plan to provide Bid Tabulation results for the respective CBE's trade discipline or specialty and to establish whether:

3.8.6.3.1. A CBE firm is the most qualified and lowest, responsive and responsible bidder; or

3.8.6.3.2. A CBE firm is identified by Contractor and Construction Agent as a "Preferred Subcontractor"; or

3.8.6.3.3. A CBE firm participated in the bidding process but did not prevail as the lowest, responsive and responsible bidder.

3.8.6.4. Contractor shall identify subcontractors who may qualify for certification under County's CBE program and direct those potential CBE participants to County's OESBD in order for those firms to pursue and obtain their certification.

3.9. Competitive Bidding

3.9.1. Contractor shall subcontract work through a competitive bidding process, as further described below, for one hundred percent (100%) of the Direct Construction Costs and those biddable elements of the General Conditions required for construction of the Project. Contractor may request in writing a waiver of the competitive bidding process for a particular incidental work items or type of trade. Construction Agent may, at its sole discretion and based upon adequate and sufficient justification, waive the competitive bidding requirement for that particular incidental work item or type of trade. In the event of Construction Agent's waiver of bidding, Contractor shall provide evidence of the process used to establish pricing for the subject items of incidental work or type of trade upon Construction Agent's request.

3.9.2. Bidding shall be conducted during the Preconstruction Services Phase and bidding results derived therefrom shall be utilized to establish the Reconciled Direct Construction Costs and the Reconciled General Conditions Costs. Bid prices established or subcontracts awarded during the Preconstruction Services

phase shall be incorporated as line items within the Reconciled Direct Construction Cost or Reconciled General Conditions Costs (**Exhibits 1-R and 2-R** respectively) and shall not be modified for escalation or de-escalation.

- 3.9.3. Contractor shall restrict competitive bidding to that list of prequalified subcontractor(s), vendor(s) and supplier(s) eligible listed on Contractor's prequalification report. Prior to the advertisement of the mandatory pre-bid conference for a particular bid solicitation package, Contractor may submit addendums to that prequalification report providing the identification and full documentation of Contractor's prequalification of proposed additional subcontractors.
- 3.9.4. Contractor, with the assistance of Architect, shall break down the work into subcontract bid solicitation packages designed to maximize both competition and the involvement of County Business Enterprises (CBEs). Contractor shall develop subcontractor, vendor, and supplier interest for each division of the work. Contractor shall obtain bids from a minimum of three (3) subcontractors for each bid solicitation package or provide justification in writing why it is not possible to do so.
- 3.9.5. All bid solicitation packages shall, so far as practicable, contain unit prices, labor rates and any other feasible formula for use in analyzing bid results and determining the cost of any required changes in the work.
- 3.9.6. Contractor shall provide a preliminary Bidding Schedule indicating the sequencing of bidding respective bid solicitation packages. Construction Agent may, at its sole discretion, defer bidding of particular bid solicitation packages upon Contractor's substantiation that significant economic or logistical benefit will accrue to County.
- 3.9.7. In conjunction with releasing the preconstruction phase bid solicitation packages to prospective bidders, Contractor shall advertise and conduct mandatory pre-bid conferences for the Project to review the Scope of Services and present the conditions and requirements of the bidding process. Contractor shall notify Construction Agent, Project Manager and County's designee in writing, of the date, time, and location of each pre-bid conference, no less than seven (7) calendar days prior to the scheduled pre-bid conference date. Construction Agent, Project Manager and County's designee will attend all pre-bid conferences.
- 3.9.8. The required bid solicitation packets for the various components of the Project shall require that all bids must be received by 5:00 PM EST by the deadline date and at a location in Broward County given by Contractor. Contractor shall notify Construction Agent, Project Manager and County's designee in writing, no less than fourteen (14) calendar days prior to the bid opening date, the location, and

time for opening of the bids. Contractor shall tabulate the bid results within fourteen (14) calendar days of the date of bid opening. Contractor must present to Construction Agent, any determinations of a bid submitted being deemed non-responsive or non-responsible within fourteen (14) calendar days of the date of bid opening with sufficient backup demonstrating this finding. Construction Agent has the right to reject Contractor's determination of a subcontractor being deemed non-responsive or non-responsible.

- 3.9.9. Contractor shall submit Managing General Contractor's Subcontractor Award Recommendation (as sample of which is attached hereto as **Attachment 6**) for each of the bid packages for the Direct Construction Costs and the Biddable Elements of the General Conditions costs with supporting documentation including Bid amount, copies of Bid, Bid Forms and Scope comparisons.
- 3.9.10. Construction Agent, with the County's designee's consent, for the limited purpose of achieving the CBE participation goal established for the Project, may designate as the selected subcontractor or supplier, a bidder whose bid exceeds that of the bidder recommended by Contractor and complies with the Contract Documents. The amount by which the bid of the selected subcontractor exceeds the bid of the bidder recommended by Contractor shall be referred to herein as the preferred subcontractor cost differential. Construction Agent may designate, with County's designee's consent, that either the preferred subcontractor cost differential be charged against any surplus amounts within the Construction Agent's Allowance Account or the Guaranteed Maximum Price be increased by the amount of the preferred subcontractor cost differential.
- 3.9.11. When Construction Agent, Project Manager and the Architect have approved the award of any such subcontract or purchase order, Contractor shall contract solely in its own name and behalf, and not in the name or behalf of Construction Agent or the County, with the specified subcontractor or supplier. Contractor's subcontract form shall provide: that the subcontractor shall perform its portion of the Work in accordance with all applicable provisions of this Agreement and the other Contract Documents; that subcontractor is bound to Contractor to the same extent as Contractor is bound to Construction Agent. In the event this Agreement is terminated for any reason, that the subcontractor shall, at Construction Agent's option, perform its subcontract for Construction Agent, or for a contractor designated by Construction Agent, without additional or increased cost, provided the subcontractor is paid in accordance with its subcontract. Contractor shall sign and cause each subcontractor to sign an Assignment of Rights under Construction Subcontract. Nothing contained herein shall impose on Construction Agent an obligation to assume any subcontract or make any payment to any subcontractor to perform. Nothing contained herein shall create any contractual relationship between Construction Agent and any subcontractor. No portion of the work may be performed by

Contractor or its affiliates except with Construction Agent and County's designee's approval.

3.9.12. All subcontracts shall, so far as practicable, contain unit prices and any other feasible formula for use in determining the cost of any required changes in the work.

3.10. Project Management Technical Infrastructure.

3.10.1. Contractor shall provide and maintain the technical infrastructure described below throughout the term of this Agreement.

3.10.2. Virtual Design and Construction (VDC) and Building Information Modeling (BIM):

3.10.2.1. Contractor shall develop, update, and manage the VDC and BIM process for the entire Project (including preconstruction, construction and post-occupancy) as part of its scope of work.

3.10.2.2. As part of preconstruction basic services, Contractor, with the Architect and the Construction Agent, shall develop and apply a set of VDC processes, including utilizing BIM, to optimize project planning and construction execution. Contractor shall develop preconstruction-phase models and perform clash detection analyses to identify design conflicts and constructability issues prior to field installation.

3.10.2.3. The Contractor's VDC process and resulting models shall:

3.10.2.3.1. Establish overall Project goals, objectives and needs for VDC deployment on the Project.

3.10.2.3.2. Determine how VDC and model uses will assist the Project team.

3.10.2.3.3. Establish how VDC will be used and respective Contractor subcontractors, the Architect, Construction Agent and Project Manager responsibilities.

3.10.2.3.4. Provide a BIM model that is a complete building model containing all building components.

3.10.2.3.5. Design the VDC and BIM Execution Process to expand and define model uses and Project deployment.

3.10.2.3.6. Schedule and conduct Project-specific 3D/BIM coordination meeting(s) with the Construction Agent, Project Manager, the County's designee, the Architect and each subcontractor.

3.10.2.4. Contractor, Construction Agent, Project Manager, the County's designee and the Architect shall mutually develop information exchanges and handoffs including but not limited to:

3.10.2.4.1. Determine how models and model data will be compiled, reviewed, and managed.

3.10.2.4.2. Review with Contract Documents and coordinate subcontractor's trade or discipline-specific 3D/BIM shop drawings.

3.10.2.4.3. Management of coordination meetings.

3.10.2.4.4. Communications with Project team.

3.10.2.4.5. Documentation and communication of all design conflicts, discrepancies, constructability issues, and review items and the respective solutions to each with the Project team.

3.10.2.4.6. Issue action lists with responsible parties and deadlines.

3.10.2.4.7. Facilitate the decision-making process between Construction Agent, Project Manager, Architect and Contractor to resolve all issues discovered in 3D BIM review.

3.10.2.4.8. Verify coordination assignments are completed.

3.10.2.4.9. Verify and maintain accurate as-built record documents including 3D / BIM files.

3.10.2.4.10. Provide Construction Agent with a final complete, coordinated model for future use with as-built conditions. The final model will include tagging features for all major mechanical, electrical, plumbing, and fire protection components that reference the products specific information including but not limited the final approved shop drawings, as- built, and operations and maintenance data.

3.10.2.5. Submit written VDC Project Execution plan for review and approval by Construction Agent prior to proceeding with the process. Incorporate review comments and recommendations from Construction Agent into a final project version that includes as a minimum:

- 3.10.2.5.1. Project Information
- 3.10.2.5.2. Key Project Contacts
- 3.10.2.5.3. Project VDC / BIM Uses
- 3.10.2.5.4. Organizational Roles and Staffing
- 3.10.2.5.5. VDC / BIM Process Design
- 3.10.2.5.6. BIM Information Exchanges
- 3.10.2.5.7. BIM and Facility Data Requirements
- 3.10.2.5.8. Collaboration Procedures
- 3.10.2.5.9. Quality Control
- 3.10.2.5.10. Technological Infrastructure Needs
- 3.10.2.5.11. Model Structure
- 3.10.2.5.12. Project Deliverables

3.10.3. Project Management Collaborative Software

3.10.3.1. Contractor shall provide and manage a construction-related, web-based software system for the information management, records management, reporting, tracking and communication between project team members.

3.10.3.1.1. Software shall have the ability to generate Project Directory, Project Contacts, RFI Logs, Submittal Logs, Budget tracking, Change Logs, and other logs as appropriate.

3.10.3.1.2. Software shall have security features to limit level of access for each user to the various software functions appropriate to their role.

3.10.3.1.3. Software shall protect documents such that changes cannot be made by non-authorized persons and that changes made can be identified and tracked.

3.10.3.1.4. Software shall be available to all project team members as appropriate (Contractor, Subcontractors,

County (through the County's designee), Construction Agent, Project Manager and the Architect).

- 3.10.3.1.5. Control of the software and access levels shall remain the responsibility of Contractor approved by Construction Agent.
- 3.10.3.1.6. Cost of licenses for all users and provision/setup of software for those users is the responsibility of Contractor.
- 3.10.3.2. Basis of design is Prolog Website. Other products such as Buzzsaw, Prolog, Newforma, e-builder or other compatible and specification conforming software may be utilized if requested and approved in advance by Construction Agent in writing. Software shall include features listed below:
 - 3.10.3.2.1. Access to all Project documents including the BIM Model by the County's designee, the Construction Agent, Project Manager and the Architect, and any other parties deemed appropriate by Construction Agent.
 - 3.10.3.2.2. Transmittal, review, and records of issue tracking logs, quality control issues, RFIs and submittals shall be electronically transferred through the web-based project management software between the Construction Agent, the Project Manager, County's designee, the Architect and Contractor. Contractor is responsible for providing hard-copy documents to the Construction Agent, the Project Manager and the County's designee upon request.
 - 3.10.3.2.3. Tracking of document versions.
 - 3.10.3.2.4. Document control, where the Architect's design or construction document issues can be tracked by date or sheet number.
 - 3.10.3.2.5. Method of storing and tracking LEED-related documentation required for submittal to the LEED administrator.
 - 3.10.3.2.6. Remote access independent of location and hardware platform.

3.10.3.3. Provided information and deliverables derived from the Project Management Software(s) shall be prepared and delivered in accordance with Exhibit A, Attachments 2 and 2A as applicable and shall remain in the ownership of Construction Agent and County.

3.11. Confirmation of Existing Conditions

- 3.11.1. Construction Agent will provide copies of available surveys, existing conditions reports and programming documents for Contractor's information and use.
- 3.11.2. Contractor shall review the programming documents and existing conditions report(s) provided by Construction Agent to ascertain the requirements of the Project and shall arrive at a mutual understanding of Project requirements between Contractor, the Architect and the Construction Agent.
- 3.11.3. Following review of the existing conditions reports, program, schedule and budget requirements each in terms of the other, Contractor shall provide a preliminary evaluation as part of the initial Constructability Report confirming an understanding of the existing site conditions, visible or invisible and identify those areas which may require additional investigation or testing.
- 3.11.4. Contractor shall expeditiously review all design documentation during their development in the context of the existing conditions and advise the Construction Agent, the Project Manager and the Architect in the Constructability Report as to appropriateness of the design and constructability strategies.

4. Other Preconstruction Services

- 4.1. The services listed below are normally considered to be beyond the scope of Basic Services as defined in this Agreement, and if authorized in advance by an appropriate CPEAM and Notice to Proceed:
 - 4.1.1. Providing technical or other special studies not otherwise specified as a Basic Service.
 - 4.1.2. Providing services relative to future facilities, systems and equipment not intended to be constructed during the construction phase.
 - 4.1.3. Providing investigations and making detailed appraisals and valuations of existing facilities, and surveys or inventories required in connection with construction performed by County or for subsequent construction, temporary facilities or other contingencies required by the Construction Agent.
 - 4.1.4. Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

- 4.1.5. Conducting supplemental site surveying, destructive or non-destructive testing or other investigations necessary to document the physical character of the site or existing conditions.
 - 4.1.6. Conducting surveys and abatements of asbestos or other hazardous materials.
 - 4.1.7. Conducting supplemental subsurface investigations and obtaining Geotechnical Data related to the site including but not limited to: Geotechnical Report, Soil Boring Report and Soils Analysis.
 - 4.1.8. Identifying and locating utilities and building systems (including but not limited to water supplies, sanitary and storm sewers, communications and providing services to coordinate or conduct tests of those various utility and building systems.
 - 4.1.9. Providing computer and technology support beyond that specified as Basic Services including provision of hardware and software components.
 - 4.1.10. Providing preconstruction services related to major changes in Project scope as determined by Construction Agent.
 - 4.1.11. Any other services not otherwise included in this Agreement or those services not customarily furnished in accordance with generally accepted construction or preconstruction practice related to the Project.
- 4.2. Value Engineering
- 4.2.1. This article and **Attachment 4** to this **Exhibit A** (Value Engineering Procedure) lists detailed requirements for Value Engineering (VE) services shall be included in the scope of the Basic Services.
 - 4.2.2. Contractor, as a result of Contractor's Constructability Review or Construction Cost Estimate and in order to control costs, may be authorized pursuant to a CPEAM and Notice to Proceed issued by Construction Agent to perform Value Engineering (VE) services and submit any resulting Value Engineering proposals to Construction Agent and Project Manager. Value engineering activities shall be performed concurrently and in conjunction with, and without delay to, the Architect's design activities. The services may include VE evaluation, review and study of design documents (including the structural, architectural, mechanical, electrical and plumbing systems and elements proposed for the building, site and other associated construction) prior to Architect's completion of the Project's schematic design documents, at the end of the Design Development Phase or at such stages as Construction Agent may direct. VE services may include VE studies of items other than design documents. Contractor shall not share in savings that may result from acceptance and use of VE Proposal's by Construction Agent.

4.2.3. Scope of VE Services:

- 4.2.3.1. Contractor shall confer with the Architect, the Construction Agent, the Project Manager and County's designee to confirm the scope of Value Engineering services required for the Project as a whole and for those respective project phases for which VE services are required.
- 4.2.3.2. Contractor, the Architect, the Construction Agent and the Project Manager shall prepare an agreed upon plan and procedure for conducting VE services appropriate to the Project's scale, scope, complexity and level of completion. Construction Agent has provided **Attachment 4**, Value Engineering Procedure as a resource and guide for the development of the Project's VE plan and procedure. The VE plan and procedure developed for this Project may be a customized version of **Attachment 4** or an alternative Project specific document as prepared and agreed to by Contractor, the Architect and the Construction Agent.
- 4.2.3.3. Contractor shall provide a copy of the Project's VE plan and procedure as an attachment to Contractor's fee proposal for the VE services for Construction Agent's consideration and approval. Upon approval by the County's designee, Construction Agent will issue a CPEAM for VE and Notice to Proceed with VE services. Authorization and approval of Contractor's alternative VE plan and procedure (or other deviations from **Attachment 4**) shall be granted at Construction Agent's sole discretion.

4.2.4. Value Engineering Team:

- 4.2.4.1. As a part of the VE plan and procedure developed for the Project, Contractor shall identify and submit for Construction Agent's approval a person who shall serve as the VE Team Coordinator (VETC) and shall prepare (with the assistance of the Architect and Construction Agent) and submit a list of VE team members and their respective resumes representing Contractor, the Architect, Construction Agent, Project Manager and those design and construction disciplines as may be required to complete the VE study effort. Subsequent changes or substitutions to the approved VE team shall be submitted in writing to Construction Agent for approval.
- 4.2.4.2. VETC may be one of Construction Agent's or Contractor's personnel or a consultant to Contractor. VETC shall be responsible for pre-study preparations, assembly of required study materials, coordination between VE team members, conducting and providing administration

of team meetings. The VETC shall produce, audit, reproduce, and sign and distribute the final VE report and each VE Proposal.

End of Exhibit A-1, Scope of Services

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF SERVICES
ATTACHMENT 1: Preliminary Project Schedule

Project Title: Terminal 25 Project
Facility Name: Port Everglades, Florida

The required Project schedule milestones for this Project are presented below. Items marked undetermined require additional development and submittal of the Architect's Project Development Schedule as required by the Professional Services Agreement for this Project.

Milestones:

Date of Substantial Completion:

Date of Final Completion:

End of Attachment 1: Preliminary Project Schedule

Preconstruction Services Agreement

EXHIBIT A-1 SCOPE OF SERVICES

ATTACHMENT 2: Electronic Media Submittal Requirements

Each of Construction Agent and Project Manager will be utilizing electronic media as the principal way it develops, communicates and archives information concerning its various construction programs. To that end, Construction Agent requires submittal of documents produced on electronic media. Requirements for that media are presented below.

- A. General Requirements: All Work, including surveying work, drawings, maps, details or other drawing information to be provided in electronic media by Contractor shall be accomplished and developed using software and procedures conforming to the following criteria. While Construction Agent does not anticipate the production of drawings (surveying work, drawings, maps, details or other drawing information) by Contractor, any incidental graphics or drawing product(s) required or resulting from the Basic Services or other additional services shall conform to the requirements for CADD or PDF format as approved by Project Manager and other graphics as specified below. Exceptions may be granted by Construction Agent upon Contractor's prior written request.
- B. Graphic Format:
1. Provide all CADD or PDF data in Autodesk, Inc.'s AutoCAD release 2012 or higher for Windows in native .dwg electronic digital format. Provide copies of all drawing sheets or other CADD or PDF format produced documents intended for hardcopy plotting or printing in plot (.plt) and drawing web format (.dwf) versions of all sheets/documents.
 2. Target platform: Intel Duo Core 5 personal computer with Windows 7 operating system.
 3. Ensure that all digital files and data (e.g., constructs, elements, base files, prototype drawings, reference files, blocks, attribute links, and other files external to the drawing itself) are compatible with Construction Agent's target CADD system (i.e., basic and advanced CADD software, platform, database software), and adhere to the standards and requirements specified herein.
 4. The term "compatible" means that data can be accessed directly by the target CADD system without translation, pre-processing, or post-processing of the electronic digital data files. It is the responsibility of the Architect to ensure this level of compatibility.
 5. Any non-graphical database delivered with prepared drawings: provide in relational database format compatible with Microsoft Access 2010 or higher, PDF, or other compatible SQL format database.
 6. Maintain all linkages of non-graphical data with graphic elements, relationships between database tables, and report formats.

7. All database tables: conform to the structure and field-naming guidance provided upon request by Construction Agent.

C. CAD Standards:

1. Standard plotted drawing size: 24 inch x 36 inch sheets.
2. Coordinate with Construction Agent concerning the standard file naming protocol to be utilized.
3. Layering:
 - a. Conform to the guidelines defined by the American Institute of Architect's (AIA) standard document, U.S. National CAD standards version 5 (V5).
 - b. Provide an explanatory list of which layer is used at which drawing and an explanatory list of all layers which do not conform to the standard AIA CAD Layer Guidelines including any user definable fields permitted by the guidelines.
 - c. Layering: Construction Agent may, from time to time, supplement the AIA U.S. National CAD standards with Construction Agent's specific requirements. Obtain latest Construction Agent specific layering from Construction Agent prior to production of documents and incorporate into drawings.
4. Attribute Definitions: Obtain latest guidance from Construction Agent concerning attribute definition, database linking and other information embedding requirements prior to production of documents.
5. Submit a written request for approval of any deviations from Construction Agent's established CADD standards. Pre-coordinate the development, use and submittal of 3-D modeling, Building Information Models (BIM), photo-realistic renderings, animations, presentations and other visualization/information tools utilized during the design and construction process to ensure compatibility of submittal with County's uses and information systems.
6. No deviations from Construction Agent's established CADD standards will be permitted unless prior written approval of such deviation has been received from Construction Agent.

- D. Non-CADD Graphic Format: Provide digital photography files and other miscellaneous graphics in High Resolution JPEG, PDF or PNG format.

E. Non-Graphic Format:

1. Provide word processing files in Microsoft Word 2010 compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
2. Provide spreadsheet files in Microsoft Excel 2010 for windows compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
3. Provide database files in relational database format compatible with Microsoft Access 2010 or higher, PDF or other compatible SQL format database including all tables, form and report formats, fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing. Ensure integrity of relational database structure.

F. Delivery Media and Format:

1. Submit copies of all CAD and PDF format data and other electronic files developed under this contract on electronic digital media as required for Project phase submittals to 400 d.p.i. resolution.
2. Provide electronic digital data and files shall be provided on ISO-9660 CD-ROM., DVD discs and Flash drives. 5-1/4-inch Floppy discs and other miscellaneous media will not be accepted.
3. The electronic digital media shall be in the format which can be read and processed by Construction Agent's target CADD system.
4. The external label for each electronic digital media shall contain, as a minimum, the following information:
 - a. The Project Number, Project Title and date.
 - b. The Facility Name
 - c. The format and version of operating system software.
 - d. The name and version of utility software used for preparation (e.g., compression/decompression) and copying files to the media.
 - e. The sequence number of the digital media.
 - f. A list of the filenames may be included in the protective cover and as an electronic file on the disc.
5. Before a CADD file is placed on the delivery electronic digital media, the following procedures shall be performed:
 - a. Ensure that drawing sheets, viewports, paperspace, line weights, fonts, and other

drawing components are correctly configured for Construction Agent's viewing and plotting.

- b. Make sure all reference files are attached without device or directory specifications. For each drawing, provide one bound file containing drawing sheet with associated XREFs and one un-bound file containing the associated XREFs.
- c. Include all files, both graphic and non-graphic, required for the Project (i.e., color tables, pen tables, font libraries, block libraries, user command files, plot files, and other elements of drawing definition). All blocks not provided as Construction Agent-furnished materials must be provided to Construction Agent as a part of the electronic digital deliverables.
- d. Make sure that all support files such as those listed above are in the same directory and that references to those files do not include device or directory specifications.
- e. Document any fonts, tables, or other similar customized drawing element developed by the Architect or not provided among Construction Agent-furnished materials. Contractor shall obtain Construction Agent approval before using anything other than Construction Agent's standard fonts, line types, tables, blocks, or other drawing elements available from Construction Agent.
- f. Include any standard sheets (i.e., abbreviation sheets, standard symbol sheets, or other listing) necessary for a complete project.
- g. Check completed files are free of any known viruses or unrequired attachments.

G. Drawing Development Documentation:

1. Provide the following information for each finished drawing in the nonplot layer X ****-NPLT:
 - a. How the data were input (e.g., keyed in, downloaded from a survey total station instrument (include name and model), and other identification data).
 - b. Brief drawing development history (e.g., date started, modification date(s) with brief description of item(s) modified, author's name, and other identifying data.).
 - c. The names of the reference, blocks, symbols, details, tables, and schedule files required for the finished drawing.
 - d. Layer assignments and lock settings.
 - e. Text fonts, line styles/types used, and pen settings.

H. Submittal:

1. Submit as Project Record Documents specified above and as required for Project phase submittals and project record documents.
2. Submit electronic media with a transmittal letter containing, as a minimum, the following information:
 - a. Brief instructions for transferring the files from the media.
 - b. Certification that all delivery media are free of known computer viruses. A statement including the name(s) and release date(s) of the virus-scanning software used to analyze the delivery media, the date the virus-scan was performed, and the operator's name shall also be included with the certification. The release or version date of the virus-scanning software shall be the current version which has detected the latest known viruses at the time of delivery of the digital media.
 - c. The following "Plot File Development and Project Documentation Information" as an enclosure or attachment to the transmittal letter provided with each electronic digital media submittal.
 - 1) Documentation of the plot file for each drawing which will be needed to be able to duplicate the creation of the plot file by Construction Agent at a later date. This documentation shall include the plotter configuration (e.g., name and model of plotter), pen settings, drawing orientation, drawing size, and any other special instructions.
 - 2) Instructions concerning how to generate plotted, or hard copy, drawings from the provided plot files.
 - 3) List of any deviations from Construction Agent's standard layer/level scheme and file-naming conventions.
 - 4) List of all new symbol blocks created for project, which were not provided to Architect with Construction Agent-furnished materials.
 - 5) List of any non-IGES crosshatch/patterns used.
 - 6) List of all new figures, symbols, tables, schedules, details, and other blocks created for the project, which were not provided to the Architect with Construction Agent-furnished materials, and any associated properties.
 - 7) List of all database files associated with each drawing, as well as a description and documentation of the database format and schema design.

- 8) Recommended modifications which will be necessary to make the data available for GIS use.

I. Construction Agent-Furnished Materials to the Contractor:

1. Construction Agent, Project Manager and the Architect may make various electronic information available to Contractor during the Pre-Construction and Construction phases of the Project. To this end, the Architect shall make the following information available to Contractor, the Construction Agent and the Project Manager in electronic format:
 - a. Work-files: Selected work product files, reports, spreadsheets, databases, specifications, drawings and other documentation of Architect's work in progress may be provided to Contractor on an as required basis. The Architect shall cooperate and facilitate the exchange of these electronic media documents.
 - b. Where electronic media submittals of final site surveys are required: Provide electronic copies of any existing site survey data already on electronic media.
 - c. Where Electronic Project Record Documents are required, the Architect will provide to each of Contractor, Construction Agent and the Project Manager one set of AutoCAD electronic file format contract drawings, to be used for as-built drawings. Make electronic file drawings available on CD ROM media.
 - d. BIM Files and associated data.

J. Other Digital Information:

1. A variety of digital information may be generated by participants in the design process including Construction Agent, Project Manager, County's designee, Architect, Contractor, subcontractors, local jurisdictional authorities and other Project team members.
2. Architect shall facilitate and participate wherever possible in this digital exchange of information by conforming to the standards expressed above and as further described in attachments and Exhibit A-1 Scope of Works.

End of Attachment 2: Electronic Media Submittal Requirements

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF WORK
ATTACHMENT 2A: BIM Standards of Care

General Provisions. BIM Model(s) shall be developed to include the systems described below as they would be built, the processes of installing them, and to reflect final as-built construction conditions. The deliverable Model at all different phases shall be developed to include as many of the systems described below as are necessary and appropriate at that stage of design.

The Model shall be developed using Building Information Modeling ("BIM") supplemented with Computer Aided Design ("CAD") content as necessary to produce a complete set of Construction Documents.

The following Level of Development (LOD) descriptions identify the specific content requirements and associated authorized uses for each Model Element at five progressively detailed levels of completeness. Each subsequent LOD builds on the previous level and includes all the characteristics of previous levels. The Parties shall utilize the five LOD described below in completing the Model, which establishes the required LOD for each Model Element at each phase of the Project.

LEVEL OF DEVELOPMENT (LOD)

LOD 100: Proposal Reconciliation

Model Content Requirements. Overall building massing indicative of area, height, volume, location, and orientation may be modeled in three dimensions or represented by other data.

Potential Uses

Analysis. The Model may be analyzed based on volume, area and orientation by application of generalized performance criteria assigned to the representative Model Elements.

Cost Estimating. The Model may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, etc.).

Schedule. The Model may be used for Project phasing and overall duration.

LOD 200: Design Development Phase (Basic Service)

Model Content Requirements. Model Elements are modeled as generalized systems or assemblies with approximate quantities, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements. Partitions and furniture models shall be included at this phase.

Potential Uses

Analysis. The Model may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.

Cost Estimating. The Model may be used to develop cost estimates based on the approximate data provided and conceptual estimating techniques (e.g., volume and quantity of elements or type of system selected).

Schedule. The Model may be used to show ordered, time-scaled appearance of major elements and systems.

LOD 300: Construction Document Phase 50% & 100%

Model Content Requirements. Model Elements are modeled as specific assemblies accurate in terms of quantity, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements.

Detailed BIM Delivery Breakdown for Level 300:

Architectural/Interior Design. The Architectural systems Model may vary in level of detail for individual building elements, but at a minimum the model must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Additional minimum Model requirements include:

Spaces. The Model shall include spaces defining actual net square footage and net volume, and holding data to develop the room finish schedule including room names and numbers. Include program information to verify design space against programmed space, using this information to validate area quantities.

Walls and Curtain Walls. Each wall shall be depicted to the exact height, length, width, materiality and ratings (thermal, acoustic, fire) to properly reflect wall types. The Model shall include all walls, both interior and exterior, and the necessary intelligence to produce accurate plans, sections and elevations depicting these design elements.

Doors, Windows and Louvers. Doors, windows and louvers shall be depicted to represent their actual size, type and location. Doors and windows shall be modeled with the necessary intelligence to produce accurate window and door schedules.

Roof. The Model shall include the roof configuration, drainage system, penetrations, specialties, and the necessary intelligence to produce accurate plans, building sections and wall sections where roof design elements are depicted.

Floors. The floor slab(s) shall be developed in the Structural Model and then referenced by the

Architectural Model.

Ceilings. All heights and other dimensions of ceilings, including soffits, ceiling materials, or other special conditions shall be depicted in the Model with the necessary intelligence to produce accurate plans, building sections and wall sections where ceiling design elements are depicted.

Vertical Circulation. All continuous vertical components (i.e., non-structural shafts, architectural stairs, handrails and guardrails) shall be accurately depicted and shall include the necessary intelligence to produce accurate plans, elevations and sections in which such design elements are referenced.

Architectural Specialties. All architectural specialties (i.e., toilet room accessories, toilet partitions, grab bars, lockers, and display cases) and millwork (i.e., cabinetry and counters) shall be accurately depicted with the necessary intelligence to produce accurate plans, elevations, sections and schedules in which such design elements are referenced.

Signage. The Model shall include all signage and the necessary intelligence to produce accurate plans and schedules.

Schedules. Provide door, window, hardware sets using Builders Hardware Manufacturers Association (BHMA) designations, flooring, wall finish, and signage schedules from the Model, indicating the type, materials and finishes used in the design.

Furniture. The furniture Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing, and have necessary intelligence to produce accurate plans. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Representation of furniture elements is to be 2D. Contractor may provide a minimal number of 3D representations as examples. Examples of furniture include, but are not limited to, desks, furniture systems, seating, tables, and office storage.

Furniture Coordination. Furniture that makes use of electrical, data or other features shall include the necessary intelligence to produce coordinated documents and data.

Equipment. The Model may vary in level of detail for individual elements. Equipment shall be depicted to meet layout and clearance requirements with the necessary intelligence to produce accurate plans and schedules, indicating the configuration, materials, finishes, mechanical, electrical requirements and all other related utilities. Examples of equipment include but are not limited to copiers, printers, refrigerators, ice machines, microwaves, and equipment specifically related to the operations and functions of the facility.

Schedules. Provide furniture and equipment schedules from the model indicating the materials, finishes, mechanical, and electrical requirements.

Structural. The Structural systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Additional minimum Model requirements include:

Foundations. All necessary foundation or footing elements, with necessary intelligence to produce accurate plans and elevations.

Floor Slabs. Structural floor slabs shall be depicted with all necessary recesses, curbs, pads, closure pours, and major penetrations accurately depicted. Major penetrations shall include A/C duct chases and pipes larger than 6" dia. only.

Structural Steel. All steel columns, primary and secondary framing members, and steel bracing for the roof and floor systems (including decks), including all necessary intelligence to produce accurate structural steel framing plans, related building/wall sections, and schedules.

Cast-in-Place Concrete. All walls, columns, beams, including necessary intelligence to produce accurate plans and building/wall sections, depicting cast-in-place concrete elements.

Precast/Tilt up/CMU. All walls, columns, beams, including necessary intelligence to produce accurate plans and building/wall sections, depicting such elements.

Expansion Joints. Joints shall be accurately depicted.

Stairs. All framing members for stair systems, including necessary intelligence to produce accurate plans and building/wall sections depicting stair design elements.

Shafts and Pits. All shafts and pits, including necessary intelligence to produce accurate plans and building/wall sections depicting these design elements.

Openings and Penetrations. All major openings and penetrations that would be included on a quarter inch (1/4"=1'0") scaled drawing.

Mechanical. The Mechanical systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2" NPS) field-routed piping is not required to be depicted in the Model. Additional minimum Model requirements include:

HVAC. All necessary heating, ventilating, air-conditioning and specialty equipment, including air distribution for supply, return, ventilation and exhaust ducts, control systems, chillers, registers,

diffusers, grills, and hydronic baseboards with necessary intelligence to produce accurate plans, elevations, building/wall sections and schedules.

Mechanical Piping. All necessary piping and fixture layouts, and related equipment, including necessary intelligence to produce accurate plans, elevations, building/wall sections, and schedules.

Plumbing. All necessary plumbing piping and fixture layouts, floor and area drains, and related equipment, including necessary intelligence to produce accurate plans, elevations, building/wall sections, riser diagrams, and schedules.

Equipment Clearances. All Mechanical equipment clearances shall be modeled for use in interference management and maintenance access requirements.

Elevator Equipment. All necessary equipment and control systems, including necessary intelligence to produce accurate plans, sections and elevations depicting these design elements.

Electrical/Telecommunications/Data. The Electrical and Telecommunications systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2"Ø) field-routed conduit is not required to be depicted in the Model. Additional minimum Model requirements include:

Interior Electrical Power and Lighting. All necessary interior electrical components (i.e., lighting, receptacles, special and general purpose power receptacles, lighting fixtures, panel boards, cable trays and control systems), including necessary intelligence to produce accurate plans, details and schedules. Lighting and power built into furniture/equipment shall be modeled.

Special Electrical. All necessary special electrical components (i.e., security, mass notification, public address, nurse call and other special electrical occupancy sensors, and control systems), including necessary intelligence to produce accurate plans, details and schedules.

Grounding. All necessary grounding components (i.e., lightning protection systems, static grounding systems, communications grounding systems, and bonding), including necessary intelligence to produce accurate plans, details and schedules.

Telecommunications/Data. All existing and new telecommunications service controls and connections, both above ground and underground, with necessary intelligence to produce accurate plans, details and schedules. Cable tray routing shall be modeled without detail of cable contents.

Exterior Building Lighting. All necessary exterior lighting including all lighting fixtures, relevant existing and proposed support utility lines and equipment with necessary intelligence to produce

accurate plans, details and schedules.

Equipment Clearances. All Electrical equipment clearances shall be modeled for use in interference management and maintenance access requirements.

Fire Protection. The fire protection system Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2" NPS) field-routed piping is not required to be depicted in the Model. Additional minimum Model requirements include:

Fire Protection System. All relevant fire protection components (i.e., branch piping, sprinkler heads, fittings, drains, pumps, tanks, sensors, control panels) with necessary intelligence to produce accurate plans, elevations, building/wall sections, riser diagrams, and schedules. All fire protection piping shall be modeled.

Fire Alarms. Fire alarm/mass notification devices and detection system shall be indicated with necessary intelligence to produce accurate plans depicting them.

Landscape. The Landscape Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing, and have necessary intelligence to produce accurate plans. Representation of Landscape elements is to be diagrammatic. Examples of landscape material include, but are not limited to trees and shrubs.

Civil. The Civil Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a one inch (1"=100') scaled drawing. Additional minimum Model requirements include:

Terrain (DTM). All relevant site conditions and proposed grading, including necessary intelligence to produce accurate Project site topographical plans and cross sections.

Drainage. All existing and new drainage piping, including upgrades thereto, including necessary intelligence to produce accurate plans and profiles for the Project site.

Storm Water and Sanitary Sewers. All existing and new sewer structures and piping, including upgrades thereto, with necessary connections to mains or other distribution points as appropriate, including necessary intelligence to produce accurate plans and profiles.

Utilities. All necessary new utilities connections from the Project building(s) to the existing or newly-created utilities, and all existing above ground and underground utility conduits, including necessary intelligence to produce accurate plans and site-sections.

Roads and Parking. All necessary roadways, parking lots, and parking structures, including necessary intelligence to produce accurate plans, profiles and cross-sections.

Potential Uses

Suitable for the generation of traditional construction documents and shop drawings.

Analysis. The Model may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Elements.

Cost Estimating. The Model may be used to develop cost estimates based on the specific data provided and conceptual estimating techniques.

Schedule. The Model may be used to show ordered, time-scaled appearance of detailed elements and systems.

LOD 400: BIM for Construction Administration

Model Content Requirements. Model Elements are modeled as specific assemblies that are accurate in terms of size, shape, location, quantity, and orientation with complete fabrication, assembly, and detailing information. Non-geometric information may also be attached to Model Elements.

Potential Uses

Construction. Model Elements are virtual representations of the proposed element and are suitable for construction.

Analysis. The Model may be analyzed for performance of approved selected systems based on specific Model Elements.

Cost Estimating. Costs are based on the actual cost of specific elements at buyout.

Schedule. The Model may be used to show ordered, time-scaled appearance of detailed specific elements and systems including construction means and methods.

LOD 500: BIM for Facility Management

Model Content Requirements. Model Elements are modeled as constructed assemblies actual and accurate in terms of size, shape, location, quantity, and orientation. Non-geometric information may also be attached to modeled elements.

Potential Uses

Facility Management. The Model may be utilized for maintaining, altering, and adding to the Project, but only to the extent consistent with any licenses granted in the Agreement or in a separate licensing agreement.

The Managing General Contractor will coordinate in all Phases with the County's designee and A/E team to create and finalize the BIM Execution Plan inclusive of the categories and sub-categories from the following table to establish the basis of COBie execution.

23-13 00 00	Structural and Exterior Enclosure Products
23-15 00 00	Interior and Finish Products
23-17 00 00	Openings, Passages, and Protection Products
23-21 00 00	Furnishings, Fixtures and Equipment Products
23-21 11 00	Commercial Systems Furniture
23-23 00 00	Conveying Systems and Material Handling Products
23-27 00 00	General Facility Services Products
23-27 13 00	Control and Monitoring Boards Panels
23-29 00 00	Facility and Occupant Protection Products
23-29 11 00	Security Detection and Monitoring
23-29 13 00	Security Access Controls
23-29 25 00	Fire Fighting Equipment
23-29 25 19	Fire Extinguishers
23-29 27 00	Fire Ventilation Equipment
23-31 00 00	Plumbing Specific Products and Equipment
23-33 00 00	HVAC Specific Products and Equipment
23-33 29 00	HVAC Dampers
23-35 00 00	Electrical and Lighting Specific Products and Equipment
23-35 23 00	Power Conditioning Equipment
23-35 23 21	Uninterrupted Power Supply (UPS) Units
23-35 37 00	Electrical Switches
23-35 37 11	Automatic Transfer Switches
23-37 00 00	Information and Communication Specific Products and Equipment
23-21 11 00	Commercial Systems Furniture

End of Exhibit A – Attachment 2A: BIM Standards of Care

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF SERVICES
ATTACHMENT 3: Preliminary Scheduling Procedure

Preparing a Schedule For Your Project or Task

Most projects involve many people doing many different tasks at different times. These tasks form a complex web of interdependencies—with each task crucial to the overall success of the project. Organizing these tasks, and the people assigned to perform them is a daunting challenge.

A technique used often in the development of project schedules is called "Storyboarding". This technique can be used during the design phase, construction phase or at any other time during the project's life when a schedule is needed. It is most useful as a preliminary activity in the development of complex Critical Path Method (CPM) schedules.

Storyboarding is a simplistic solution to a complex problem; that is, how to identify all the tasks that must be accomplished to meet project objectives. In most cases the end objectives are well defined; however, the plan to achieve those objectives remains vague and spread across various responsibilities. The "storyboard" attempts to identify all the tasks needed to obtain these objectives along with the interrelationships between these tasks. When developing schedules, and in particular a 'storyboard' generated schedule, two major points must be followed:

- 1) The tasks must be well defined. Tasks with definable end results is a requirement.
- 2) The same tasks must have some level of accountability assigned to them. For each definable task, a person or organization must take ownership to the task.

The key to any successful schedule development is cooperation. By viewing this process as a team function and stressing ownership in its development, a successful end product will result.

The contents of the sections which follow should serve as a guide to anyone wishing to create a "storyboard" for their own projects or tasks.

Setting up - Pre-Storyboard Meeting:

If the storyboard is to be created for the first time on the Project, it is very important that a meeting be held prior to the actual storyboarding meeting. At this meeting all the participants will have the storyboard process explained to them. Each participant will be given 3" x 5" colored index cards (See Fig. A). The color will vary with each participant, for example, the Construction Agent will receive red cards, Architect green, Contractor white, etc. (using a typical construction

project scenario). The participants should include everyone who has anything to do with the Project. Each card should have a specific activity, the time to complete the activity, the number of people required to complete it (manpower), what the preceding number must be before this one can start, and what activities following will be; in other words, the predecessor and successor to this activity.

The reason for requesting resources is to allow resource analysis; that is, we want to make sure that the participants are staffing the Project properly. Resource allocation to the activities is important, however, should the cards not include the required resources to perform that task, proceed with the storyboarding. Don't distract the process of developing the schedule for the lack of resource definition. Remember, the main objective is to develop a logical schedule, using definable and "monitorable" tasks that have a level of accountability assigned to each task.

(It is important however, to point out to the participants who fail to assign resources that many task schedules fail due to inadequate or improper assignment of resources.)

The card should be laid out as shown in Figure A.

End of Page

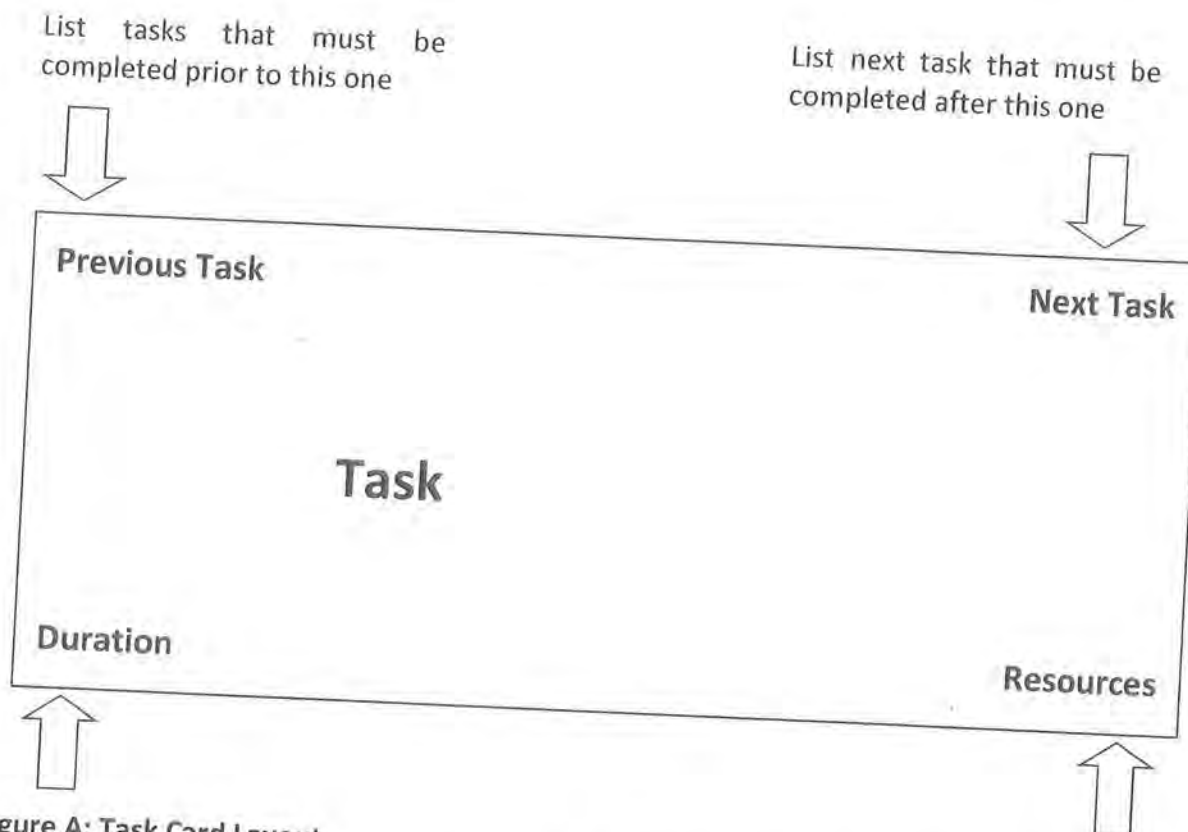


Figure A: Task Card Layout

List How Long (Days) this task will take to complete

List personnel, space, tools, or other special resources needed to complete this task

Note that if this is the second or third time for a storyboarding session, you would just have to advise the participants that a new storyboarding meeting will occur and prepare for it like they did on the first one. Make sure to set the date for the storyboarding so that everyone involved can be present.

If this is a construction storyboard, you must try not to get into so much detail in one sitting as to stop the meeting with insignificant information. The best way is the simplest way.

Calendar Preparation:

One of the first steps for the storyboarding is defining the total length of time this particular portion of work will be scheduled. One technique is to lay out on plain brown wrapping paper a calendar (as shown in Figure B) with each month approximately 36 inches in length. Depending on the amount of detail and size of the project, you can either use one or two widths of paper.

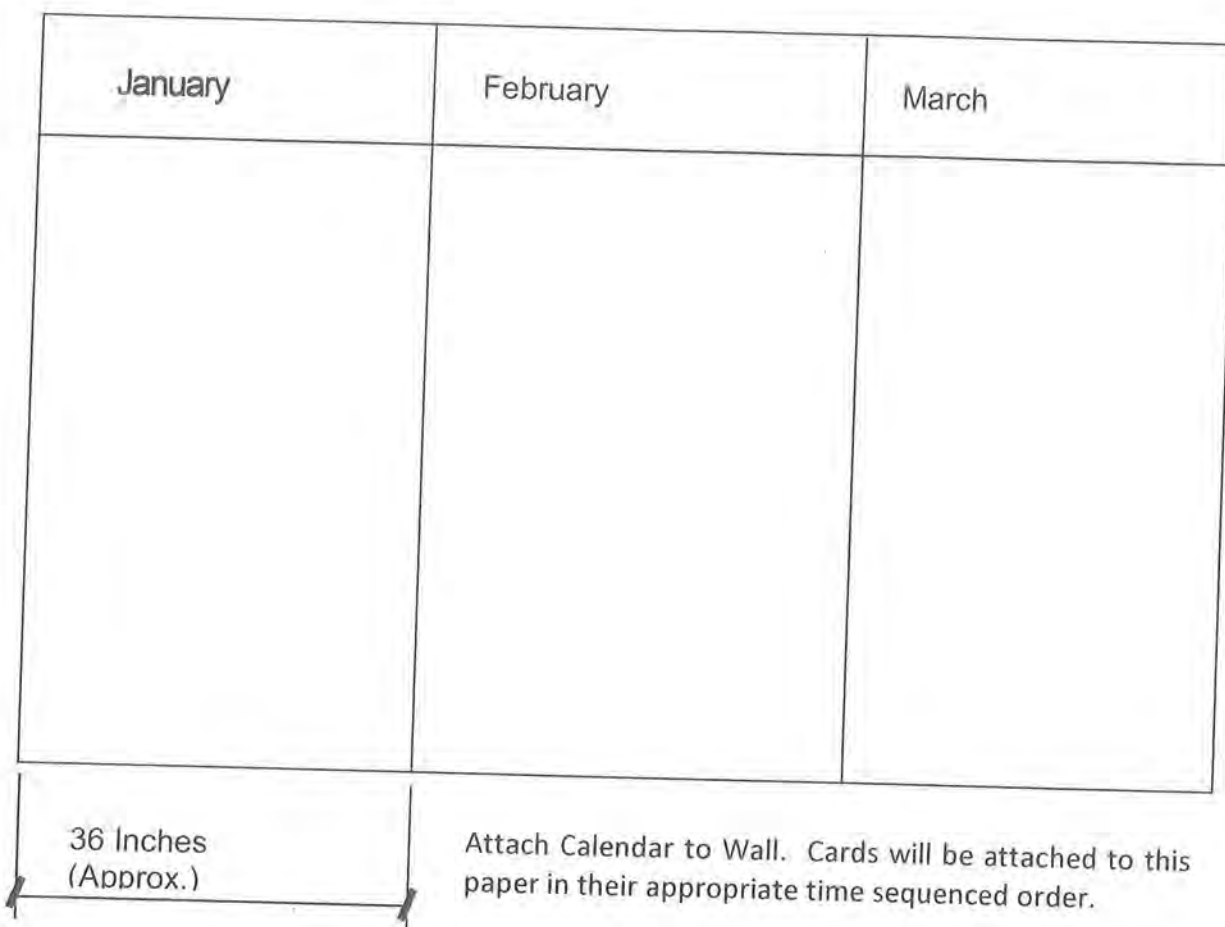


Figure B: Calendar Layout

Keep in mind when preparing this calendar that it will be attached to a wall in order to allow all participants to attach their activity cards to this paper. Another item to remember is that you must carry this back to your office so you do not want to make it so wide as to make it impossible to carry.

The Storyboard - Who Starts It?

After taping or thumbtacking the calendar to the wall and after a brief explanation of what the storyboard is, you are ready to start. It is important that there be one person who runs the show, usually the Scheduler or Project Manager. This person will answer questions and try to solve any problems that might occur during the storyboarding meeting.

It is imperative that the person who takes charge of the proceeding should have knowledge of the project being scheduled. Not having adequate knowledge of the project will eventually show up in the dialogue that results during the development of the schedule.

One way to start the storyboard is for Contractor, Construction Agent, Project Manager
Terminal 25 Project, Everglades Project, Florida Exhibit A-1, Attachment 3: Preliminary Scheduling Procedure
Preconstruction Services Agreement

or the Architect (or other primary project task holder) to put their cards on the calendar. This will force the other participants to speak up to protect their own interest. The key here is to invite the participants up to the calendar to lay out their portion of the work.

Another method is to put on the calendar specific milestones. For instance, in the case of office construction, when does the owner need occupancy, etc. Once these milestones are established, the other participants can step up to the calendar and fill in with their activity cards the work that has to be done to meet these milestones. You will find that once somebody has started the storyboard, the other members usually pitch in and want to get up and start doing their part to make the storyboard successful.

Continue putting cards on the wall until all participants have none left to put up. We are now ready for the review process.

Review Process (Storyboard Meeting):

Once all the cards have been placed on the wall, take a break. While participants are taking a break, the Scheduler and the Project Manager will review by themselves the results of the storyboard. This time should be used to review what has been developed and which areas need elaboration or clarification. Upon returning from the break, the Scheduler will advise the participants as to any additional activities or any errors that might have occurred. Each participant should then present before the entire team the cards they have put on the wall. Participants should outline to the team what they have written down on their cards and how they see their portion of the work as taking place.

If there are any changes to the storyboard, now is the time to make them. Advise the participants that it is their schedule, one that they will have to live with so it is in their best interest to watch closely how others are doing work that might have some impact on work that they have to do.

The Scheduler or the Project Manager will set the date of the next meeting where the storyboard, which will be in the form of a time phased network, will be reviewed and agreed to. The participants will be given an opportunity to 'buy in' to the schedule, stressing that it is a team process. At this time we also want to broad brush the total project before all the participants to keep them reminded of the end objective, or any other major milestones.

Time Phase Network Preparation:

The next step is for the Scheduler or Project Manager to develop the network from the storyboard. The method usually employed is time scale networks. The reasons for time scale are:

1. Always shows the flow of the activities in a logical manner.
2. Shows quickly the critical path.

3. Shows overlap of activities and density of activities at any given period of time.

Review Process (After the Storyboard):

At the next meeting, the Scheduler and Project Manager in charge of the Project will review with all the participants the schedule that was developed from the storyboard. Any adjustments to the schedule by the participants should be brought up now or the schedule will be understood to be accepted by all members. Once all the members agree to the schedule, we can then formally issue the Project schedule.

We can only stress that all participants should take ownership of their portion of the schedule. Only then do we find that cooperation to meet the objective is fully achieved.

Summary:

Keep in mind that as the Project progresses, the participants and the amount of detail changes. Therefore, the storyboard can be done at any phase of the schedule. The basic philosophy that we want to adhere to is a forward movement in our Project planning; identifying key elements with a 90 to 120 day horizon in the future (and looking towards the end of the project). Getting more detail as the detail becomes available. The reason the storyboard works is because the input is provided from the people that are actually going to do the work. We, as the Scheduler and Project Manager, act as a medium to show and advise the project team on how we plan to meet the project objectives. We do not attempt to develop the schedule without the teams' input. We know from experience what should be on the cards at the storyboard and it is up to us to advise the people who are participating in the storyboarding that we do know what the activities should be.

End of Exhibit A-1 – Attachment 3: Preliminary Scheduling Procedure

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF SERVICES
ATTACHMENT 4: Value Engineering Procedures

I. General Requirements:

A. Overview

1. The Architect, as a result of Contractor's Constructability Review or Construction Cost Estimate and in order to control costs, shall perform Value Engineering (VE) services and submit any resulting Value Engineering proposals to Construction Agent and the Project Manager.

2. Value engineering activities shall be performed concurrently and in conjunction with, and without delay to, the Architect's design activities. The services shall include VE evaluation, review and study of design documents (including the structural, architectural, mechanical, electrical and plumbing systems and elements proposed for the building, site and other associated construction) prior to the Architect's completion of the project's schematic design documents, at the end of the Design Development Phase and at such stages as Construction Agent may direct.

3. VE services may include VE studies of items other than design documents.

4. Architect shall be paid as the agreement specifies for this effort, but shall not share in savings that may result from acceptance and use of VE Proposal's by County.

B. Definitions:

1. "Life Cycle Cost," (LCC) as used in this article, is the sum of all costs over the useful life of a building, system or product. It includes the cost of design, construction, acquisition, operation, maintenance and salvage (resale) value, if any.

2. "Value Engineering" (VE), as used in this article, means an organized effort to analyze the functions of systems, equipment, facilities, services and supplies for the purpose of achieving the essential functions at the lowest life cycle cost consistent with required performance, reliability, quality and safety.

3. "Value Engineering Proposal", as used in this article, means, in connection with Contractor's agreement, a change proposal developed by Contractor and its VE team.

C. Value Engineering Team

1. Not later than twenty (20) days after receipt of the Limited Notice To Proceed with Preconstruction Services from Construction Agent, Contractor shall identify and submit for Construction Agent's approval a person who shall serve as the VE Team Coordinator and a list of VE team members and their respective resumes representing the design and construction disciplines required to complete the VE study effort. Subsequent changes or substitutions to the approved VE team shall be submitted in writing to Construction Agent for approval.

2. The VE Team Coordinator (VETC) may be one of Contractor's personnel or a Architect to Contractor and shall be responsible for pre-study preparations, assembly of required study materials, coordination of team members, conducting and providing administration of team meetings. The VETC shall produce, audit, reproduce, and sign and distribute the final VE report and each VE Proposal.

II. Contractor's Preparation for VE Workshop(s):

A. Coordination Meeting. A coordination meeting between Construction Agent, Project Manager, the Architect, Contractor and Value Engineering Team Coordinator (VETC).

1. The VETC shall conduct this meeting prior to each VE Workshop. The meeting is intended to promote a common level of understanding about the objectives and constraints of the VE workshop, establish a productive working environment, confirm the schedule of events, and coordinate the handling of material.

2. Items discussed during the meeting shall include the availability and format of technical and cost data, agenda of the VE workshop, processing of the VE recommendations, plus the date, location, and other logistical arrangements for the VE workshop.

B. Accumulation of the project's technical and cost data.

1. Construction Agent will assist in supplying project data to the VETC at least two weeks before the VE workshop to allow sufficient time for review and development of the VE study models. The technical data consist of the functional space program, engineering reports, design calculations and all current drawings and specifications. The cost data shall consist of any Project cost estimates, Project budgets, and any special cost studies that may have been produced by Construction Agent, Project Manager, the Architect or Contractor.

2. Material required for the Concept (Schematic Design) Workshop: The purpose of the Concept Workshop at the schematic design stage is to establish basic design approaches such as building massing, functional relationships, space allocations and schematic layouts. In addition, basic building systems concepts should be established as well as any special requirements including environmental, safety and historic preservation. Construction Agent,

assisted by the Architect and Contractor, will endeavor to provide the following materials to the VETC in preparation for this workshop:

- a. Initial phasing/scheduling plans
- b. Functional space program
- c. Gross and occupiable area analysis
- d. Drawings including block layouts, building siting, preliminary elevations and sections
- e. Narrative descriptions of major building systems and basis of design
- f. Renderings, perspectives and model photographs
- g. Special studies, statistical reviews and calculations
- h. Boring logs, soil reports or preliminary analysis
- i. Preliminary narrative specifications
- j. Cost estimate and cost studies
- k. Utility rate guidelines
- l. Planned building operating profile
- m. Utilities available to site

3. Material Required for the Design Development Phase Workshop: The purpose of Design Development Workshop is to establish final layouts and appearance of the facility and to determine major building system selections. Most special requirements should be finalized or under study and approaching completion. Construction Agent and Project Manager, assisted by the Architect and Contractor, will endeavor to provide the following materials to the VETC in preparation for this workshop:

- a. Drawings including architectural, civil/site, structural, mechanical and electrical
- b. Preliminary specifications
- c. Preliminary phasing/scheduling plans
- d. Design calculations
- e. Boring logs and soil reports
- f. Gross and occupiable areas analysis
- g. Utility rates
- h. Energy studies
- i. Life cycle cost studies
- j. Building operating profile
- k. Construction cost estimate
- l. Construction market survey

C. Providing logistical arrangements for the VE workshop.

1. Once the VE team(s) selection is finalized, the VETC shall distribute or otherwise make available selected technical and cost data to each team member for a brief review prior to

the workshop. The pre-workshop review should typically allow for 2 to 4 hours per team member. This review is intended to briefly familiarize the participant with the Project.

2. The VETC shall coordinate with Construction Agent to select and reserve a space for the workshop meeting. The VE workshop shall be located at a site within a Construction Agent or County owned facility or other facility with prior approval of Construction Agent. Prior to a VE Workshop, the VETC shall visit the meeting location with a representative of Construction Agent to ensure the adequacy of the meeting space.

3. The VETC shall ensure that VE team members have visited the Project site prior to a scheduled VE Workshop.

4. The VETC shall arrange for a laptop or other computer with appropriate software and peripherals that may be required during the VE workshop. VETC may inquire as to Construction Agent's ability to provide limited computer support.

5. Flip charts, markers, and easels shall be provided by the VETC.

D. Preparation of initial cost, energy, and life cycle models.

1. Cost Model: The VE Cost Model is a study tool presenting both estimated and target construction costs distributed by subsystem or functional area. Target costs shall be determined during the VE workshop and shall represent the VE team's estimate of the least cost to perform the function of each subsystem or functional area. Large differences between estimated costs and target costs shall be identified as areas with potential for cost savings or value improvement.

2. Energy Model: The VETC shall assemble an energy model for the VE team to use in a similar manner as the cost models. Energy models shall present displays of energy consumption for the facility subsystem or functional area and shall typically express energy in units of KWH per year. Target energy consumption estimates shall be assigned to each subsystem or functional area by the VE team during the VE workshop and represent the least possible energy consumption for each subsystem or functional area based on historical energy data and the VE team's experience. The energy model is not intended to provide a precise projection of energy demand or cost. The energy model's primary purpose is the rapid identification of energy intensive areas that offer a high potential for energy reductions and cost savings. Large differences between estimated energy costs and target energy costs shall be identified as areas with potential for cost savings or value improvement.

3. Life Cycle Cost Model: The VETC shall assemble a life cycle cost (LCC) model to illustrate the total cost of ownership of the new facility. The LCC model shall provide a complete cost picture and shall serve as a baseline for the VE team's determinations of the cost impacts of VE recommendations. The interest or discount rate used to prepare LCC models should be an appropriate value established by Construction Agent, Contractor, and the VETC.

E. Distribution of the technical and cost data to VE team members.

III. The VE Workshop

A. The VE workshops are the major activity during the VE study and shall be conducted by the VE Team to achieve the following goals:

1. To provide an organized team approach that allows the VE team to analyze a project by quickly identifying high cost to worth areas and selecting alternatives which minimize costs while maximizing quality.
2. To encourage the VE team to think in a creative manner, i.e., to look beyond the use of common or standard approaches.
3. To emphasize total ownership costs (life cycle costs) for a facility, rather than just initial capital costs.
4. To leads the VE team to develop a concise understanding of the purposes and functions of the facility.

B. The systematic methodology used by the VE team to accomplish the VE workshop shall be defined as the VE Job Plan and shall consist of the following five distinct phases:

1. **Information Phase:** During the Information Phase, the VETC and VE team shall solicit comments on the technical and cost data to develop an overall understanding of the project's functions and requirements. The Information Phase shall consist (as a minimum) of the following activities:

a. **Oral Presentation:** The VETC shall facilitate an oral presentation by Construction Agent, County's designee, the Architect and Contractor on the first morning of the workshop to provide the VE team with an understanding and appreciation of the factors that have influenced the Project's design. This oral presentation shall serve to open the lines of communication between the VE team members, Construction Agent and Contractor. The oral presentation should include:

- i. Contractor's rationale for the Project's development, including the assumptions used to establish the building program, design criteria and to select the Project's materials and systems.
- ii. Contractor's description of the rationale, evolution, constraints and alternatives, for the major design components.

iii. Contractor's description of the difficulties encountered during the design of the Project.

b. Function Analysis:

i. The "function analysis approach" shall be used to arrive at the basic purpose of building systems and sub-systems and to assist the VE team in determining the least costs to perform primary functions and peripheral or support functions while identifying costs which can be reduced or eliminated without affecting the performance or reliability of the facility. The function analysis shall be completed as follows:

- a. Identify the study area(s).
- b. Identify the basic verb/noun function of the study area.
- c. List the component parts of the study area.
- d. List the verb/noun function of each component and subcomponent.
- e. Identify whether each function is basic, secondary, or a required secondary function.
- f. Identify the estimated construction cost of each function.
- g. Speculate on the worth or the least cost to accomplish the function.

ii. The VE Team shall analyze the function of building systems and sub-systems by creation of two-word noun-verb descriptions of those functions. The VE team shall identify and analyze both basic functions (the specific task or work it must perform), secondary function(s) (functions that may be desired but are not actually required to perform the specific task or Work) and required secondary functions (functions are absolutely necessary to accomplish the specific task or Work, although they do not exactly perform the basic function) for selected building systems and sub-systems.

iii. For each selected building system and sub-system, the VE Team shall ask and document answers to the following questions in relation to the functions of an item/area:

- a. What is its purpose?
- b. What does it do?
- c. What is the cost?
- d. What is it worth?
- e. What alternative would accomplish the same function?
- f. What would that alternative cost?

iv. The function analysis shall identify functional areas sequentially and hierarchically as functions vary according to the selected area (from the total facility to the building elements, systems and sub-systems).

v. The function analysis shall establish an estimate of the worth of each subsystem or component for comparison with its estimated cost. Since worth is an

indication of the value of performing a specific function, extreme accuracy in estimating the worth is not critical. Worth shall be used as a mechanism to identify areas of high potential savings and value improvement. Subsystems performing secondary functions have no worth because they are not directly related to the basic function.

vi. The VE team shall make a comparison of the cost-to-worth ratios for the total facility and its subsystems. These cost-to-worth ratios are obtained by dividing the estimated cost of the system or subsystems by the total worth for the basic functions or the system or sub-system. High cost-to-worth ratios suggest areas of large potential cost savings and identify systems or sub-systems that would be selected for further study by the VE team. Similarly, low cost-to-worth ratios indicate areas where further study efforts would probably not be justified due to diminished potential for cost savings. Cost-to-worth ratios greater than two usually indicate areas with the potential for substantial cost savings and value improvement and shall be considered for further study.

vii. Fast Diagramming: The VE Team shall provide graphics indicating the logical relationship of the functions of an item, subsystem, or facility in the form of FAST (Function Analysis System Technique) Diagram(s). The FAST diagram shall be a block diagram based on answers to the questions of "Why?" and "How?" for the item under study.

2. Speculation/Creative Phase

a. The VETC shall conduct a group interaction process that the VE team will use to identify alternative ideas for accomplishing the function of systems or subsystems associated with specific study areas. This phase involves an open discussion without any restrictions on the imagination or inventive thinking of individual team members. All analysis, evaluation, or judgment of the ideas generated is delayed until the Evaluation/Analytical Phase.

b. The VETC shall record and list ideas by system, subsystem, and component to facilitate effective organization of the study. The objective of the Speculative/Creative Phase is to generate a completely free interplay of ideas between team members to create an extensive list of alternative ideas for later evaluation. The VETC shall facilitate the discussion and ensure the deferral of any critical judgments or comments that might inhibit any of the team members.

c. The VETC shall encourage and solicit the active participation of all VE team members in the creative development of ideas. The VETC is responsible for maintaining a climate for the free exchange of ideas by directing the team members away from discussion or arguments about relative merits of individual ideas.

3. Evaluation/Analytical Phase:

a. During the Evaluation/Analytical Phase, the ideas developed in the Speculative/Creative Phase shall be examined to assess which have the best opportunity for

implementation, cost savings, and value improvement. The VE team shall evaluate the feasibility of each idea by identifying and documenting its advantages and disadvantages. The ideas shall then be rated on a scale of one to ten. A ten represents either the best technical idea or the one with the greatest potential for cost savings and value improvement.

- b. In ranking ideas, the VE team should consider the following:
 - i. Are the aesthetic, performance, quality and reliability requirements met or exceeded?
 - ii. Will excessive redesign or project delay be created?
 - iii. Is there improvement in operation and maintenance?
 - iv. Will life cycle cost savings be achieved?
 - v. Does the idea have a reasonable chance of acceptance and implementation?

- c. The VE Team shall provide more detailed investigations of the highest rated ideas in the Development/Recommendation Phase.

4. Development/Recommendation Phase:

- a. The VE Team shall develop the best ideas from the Evaluation/Analytical Phase into workable VE Proposals. The VE team shall research and develop preliminary designs and life cycle cost comparisons for the original designs and the proposed alternative ideas. The VE Team shall coordinate and consult with outside experts, vendors, and reference sources to obtain additional evaluation information before developing the VE Proposals.

- b. The development of an idea into a proposal shall include the following steps:

- i. Description of the original design and the alternative idea.
- ii. Sketch of the original design and the alternative idea.
- iii. Discussion of the advantages and disadvantages of the alternative idea including its impact on life cycle costs and other key facility issues.
- iv. Preparation of a cost estimate and a life cycle cost analysis if necessary, for the original design and the alternative idea.
- v. Recommendation of preferred approach.

- c. The VE team shall convey the concept of each VE Proposal in a clear and concise manner to avoid its rejection due to a lack of understanding by Contractor or Construction Agent. While preparing VE Proposals, the VE team shall work with Contractor to understand and reflect Contractor's perspective for design, value, reliability, cost effectiveness and implementation.

- d. Each alternative idea shall be presented as a single independent VE Proposal and recommendation. Each VE Proposal shall be consecutively and uniquely numbered. Multiple ideas shall not be grouped together into a proposal unless there is a technical advantage to doing so.

e. VE Proposal preparation. As a minimum, Contractor shall include the following information in each VE Proposal:

- i. A description of the difference between the existing and proposed design, the comparative advantages and disadvantages of each, a justification when an item's function is being altered, the effect of the change on system or facility performance.
- ii. A list and analysis of design criteria or specifications that must be changed if the VE Proposal is accepted.
- iii. A separate detailed estimate of the impact on project cost of each VE Proposal, if accepted and implemented by the Government.
- iv. A description and estimate of costs the Government may incur implementing the VE Proposal, such as design change cost and test and evaluation cost.
- v. A prediction of any effects the proposed change may have on life cycle cost.
- vi. The effect of the VE Proposal will have on the design or construction schedules.

5. Report Phase

a. The Report Phase shall consist of both an oral and written presentation of the results from the VE study.

b. Oral Presentation: The VE Team shall present VE Proposals in an oral presentation on the last day of the VE workshop. The oral presentation should be a relaxed and informal meeting which lasts approximately one to three hours. The presentation shall provide an opportunity for Construction Agent and Contractor to discuss the VE Proposals with the VE team. To facilitate the oral presentation, the VETC shall:

- i. Provide a summary of the VE Proposals to Construction Agent, Contractor and VE team members during the oral presentation so they can commence their review and analysis prior to the receipt of the VE report.
- ii. Initiate the presentation with an overview of the VE study and a summary of the VE Proposals including the potential cost savings.
- iii. Describe the major factors which influenced the VE study.
- iv. Moderate a brief description of each VE Proposal.
- v. Facilitate questions and answers concerning the VE study.

c. VE Report: The VETC shall prepare a written report which summarizes the results of the entire VE study and submit ten (10) copies of that report to Construction Agent not later than fourteen (14) calendar days following the Oral Presentation concluding the VE Workshop. The VE Report will be used by Construction Agent and Contractor in their review and evaluation of the VE Proposals. The VE Report shall contain at least the following information:

- i. Cover Sheet
- ii. Signature Page and Acknowledgments
- iii. Executive summary
- iv. Project name and general description and summary functional space program
- v. Scope of the VE study
- vi. Names of Construction Agent and its staff representatives, Contractor and its representatives, Contractor and its representatives, and other VE team members and their related responsibilities
- vii. Location and date of the workshop
- viii. List of the data provided by the A-E
- ix. Project objectives and constraints
- x. All cost, energy, and life cycle models, and worksheets from the Job Plan phases
- xi. Summary of VE Proposals and cost savings
- xii. Specific VE Proposals with supporting documentation
- xiii. Appendix with additional information that the VETC may find appropriate.

IV. Post-Workshop Activity

A. The post-workshop VE activity will include a thorough review and evaluation of each VE recommendation presented in the VE report by Contractor. Contractor and Construction Agent shall determine which VE items are to be pursued further after which Contractor shall prepare the VE Implementation Summary Acceptance Report.

B. Construction Agent and Contractor will evaluate each VE Proposal on the basis of technical, operational, and life cycle cost savings considerations and may consult with the VETC to clarify any questionable items that arise during their review of the VE Proposals. The VETC shall answer questions posed and shall provide clarifying information that may be requested by either Construction Agent or Contractor.

C. Contractor will make recommendations to Construction Agent concerning acceptance or rejection of VE Proposals. Construction Agent, at its sole discretion, may accept or reject any VE Proposal in whole or in part.

D. VE Implementation Summary Acceptance Report:

1. Once all the VE Proposals have been reviewed, this report is prepared by VETC to summarize the results of the action taken on each of the VE Proposals. The VE implementation summary report and the VE report serve as the complete documentation for the VE study. Separate sets of reports must be prepared for each VE study conducted on the Project.

2. The VE Implementation Summary Acceptance Report shall include:

- a. A brief description of the Project, the scope of the VE efforts, and the timing of the study.
- b. A summary list of the accepted and rejected VE Proposals. Identification numbers from the original VE report should be carried forward.
- c. An implementation schedule (prepared by the VETC in collaboration with Contractor) for incorporating the accepted proposals into the design.
- d. An analysis (prepared by the VETC in collaboration with Contractor) of the value improvement effect of VE Proposals. This can be done in a summary form or by individual proposal(s).

V. VE Worksheets and Forms: Sample VE Worksheets and Forms for use during the VE Workshop will be available upon request from Construction Agent.

End of Exhibit A-1 – Attachment 4: Value Engineering Procedure

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF SERVICES
ATTACHMENT 5: Schedule of Values for Preconstruction

Managing General Contractor Agreement

Terminal 25 Project, Port Everglades, Florida

Preconstruction Services Agreement
EXHIBIT A-1 SCOPE OF SERVICES
ATTACHMENT 6: Contractor's Subcontractor Award Recommendation

EXHIBIT A-2 CONSTRUCTION SERVICES

Managing General Contractor Agreement

Terminal 25 Project, Port Everglades, Florida

EXHIBIT A-2 CONSTRUCTION SERVICES
ATTACHMENT 1: Schedule of Values for Construction Services

EXHIBIT A-3 SCHEDULE OF JOB CLASSIFICATIONS

Managing General Contractor Agreement

Terminal 25 Project, Port Everglades, Florida

EXHIBIT B-E
Contractor's Estimated GMP

The following amounts reflect the Estimated Contract Price Elements and Approved GMP:

Contract Price Element	Estimated Value
A. Pre-construction Services	\$
B. Estimated Direct Construction Cost	\$
C. Estimated General Conditions Cost	\$
D. Estimated Fixed Fee (X%)	\$
E. Estimated Construction Agent's Allowance Account	\$
Total GMP	\$

EXHIBIT B-R
Contractor's Reconciled GMP

The following amounts reflect the Reconciled Contract Price Elements and GMP Amounts, following the bidding process in Exhibit A:

Contract Price Element	Reconciled Value
A. Pre-Construction Services	
B. Reconciled Direct Construction Cost	\$
C. Reconciled General Conditions Cost	\$
D. Reconciled Fixed Fee (X%)	\$
E. Reconciled Construction Agent's Allowance Account	\$
Total GMP	\$

Exhibit 1-E: Estimated Direct Construction Cost
Project Name: Terminal 25 Project, Port Everglades, Florida

#	DESCRIPTION	ESTIMATED VALUE
1		\$
2		\$
3		\$
4		\$
5		\$
6		\$
7		\$
8		\$
9		\$
10		\$
11		\$
12		\$
13		\$
14		\$
15		\$
16		\$
17		\$
18		\$
19		\$
20		\$
21		\$
22		\$
23		\$
24		\$
25		\$
26		\$
27		\$
28		\$
29		\$
30		\$
31		\$
32		\$
33		\$
34		\$
35		\$
TOTAL ESTIMATED DIRECT CONSTRUCTION COST		\$

Exhibit 1-R: Reconciled Direct Construction Cost
Project Name: Terminal 25 Project, Port Everglades, Florida

#	DESCRIPTION	RECONCILED VALUE
1		\$
2		\$
3		\$
4		\$
5		\$
6		\$
7		\$
8		\$
9		\$
10		\$
11		\$
12		\$
13		\$
14		\$
15		\$
16		\$
17		\$
18		\$
19		\$
20		\$
21		\$
22		\$
23		\$
24		\$
25		\$
26		\$
27		\$
28		\$
29		\$
30		\$
31		\$
32		\$
33		\$
34		\$
35		\$
TOTAL RECONCILED DIRECT CONSTRUCTION COST		\$

Exhibit 2-E: Estimated General Conditions
Project Name: Terminal 25 Project, Port Everglades, Florida

#	DESCRIPTION	ESTIMATED VALUE
1		\$
2		\$
3		\$
4		\$
5		\$
6		\$
7		\$
8		\$
9		\$
10		\$
11		\$
12		\$
13		\$
14		\$
15		\$
16		\$
17		\$
18		\$
19		\$
20		\$
21		\$
22		\$
23		\$
24		\$
25		\$
26		\$
27		\$
28		\$
29		\$
30		\$
31		\$
32		\$
	SUB TOTAL ESTIMATED GENERAL CONDITIONS	\$
33	Insurance & Bond	\$
	ESTIMATED GENERAL CONDITIONS TOTAL	\$

Exhibit 2-R: Reconciled General Conditions
Project Name: Terminal 25 Project, Port Everglades, Florida

#	DESCRIPTION	RECONCILED VALUE
1		
2		\$
3		\$
4		\$
5		\$
6		\$
7		\$
8		\$
9		\$
10		\$
11		\$
12		\$
13		\$
14		\$
15		\$
16		\$
17		\$
18		\$
19		\$
20		\$
21		\$
22		\$
23		\$
24		\$
25		\$
26		\$
27		\$
28		\$
29		\$
30		\$
31		\$
32		\$
	SUB TOTAL RECONCILED GENERAL CONDITIONS	\$
33	Insurance & Bond	\$
	RECONCILED GENERAL CONDITIONS TOTAL	\$

Exhibit 3: Prevailing Wage Determination
Project Name: Terminal 25 Project, Port Everglades, Florida

(INSERT APPLICABLE DECISION)

Exhibit 4: List of Pricing Documents
Project Name: Terminal 25 Project, Port Everglades, Florida

The following is an enumeration of the drawings and specifications that form the basis of the RGMP:

SPECIFICATION INDEX

DATE

Division 1 – General Requirements

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 2 – Sitework

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 3 – Concrete

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 4 – Masonry

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 5 – Metals

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 6 – Wood and Plastics

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 7 – Thermal and Moisture Protection

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 8 – Windows and Doors

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 9 – Finishes

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 10 – Specialties

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 11 – Equipment

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 12 – Furnishings

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 13 – Special Construction

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 14 – Conveyances

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 15 -- Mechanical

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

Division 16 – Electrical

Section XXXXX	Section Title
Section XXXXX	Section Title
Section XXXXX	Section Title

DRAWING INDEX

Project Name: **Terminal 25 Project, Port Everglades, Florida**

Drawing Number	Drawing Title	Date
GENERAL		
G-001	Cover Sheet and Drawing Index	
G-002	Survey	
G-003	Life-Safety Plan	
CIVIL		
C-1	Civil Sheet Title	
C-2	Civil Sheet Title	
C-3	Civil Sheet Title	
LANDSCAPE		
L-1	Landscape Sheet Title	
L-2	Landscape Sheet Title	
IR-1	Irrigation Sheet Title	
IR-2	Irrigation Sheet Title	
ARCHITECTURAL		
A-1	Architectural Sheet Title	
A-2	Architectural Sheet Title	
A-3	Architectural Sheet Title	
INTERIOR DESIGN		
ID-1	Interior Design Sheet Title	
ID-2	Interior Design Sheet Title	
ID-3	Interior Design Sheet Title	
STRUCTURAL		
S-1	Structural Sheet Title	
S-2	Structural Sheet Title	
S-3	Structural Sheet Title	
MECHANICAL		
M-1	Mechanical Sheet Title	
M-2	Mechanical Sheet Title	
M-3	Mechanical Sheet Title	

Drawing Number	Drawing Title	Date
ELECTRICAL		
E-1	Electrical Sheet Title	
E-2	Electrical Sheet Title	
E-3	Electrical Sheet Title	
PLUMBING		
P-1	Plumbing Sheet Title	
P-2	Plumbing Sheet Title	
P-3	Plumbing Sheet Title	
FIRE PROTECTION		
FP-1	Fire Protection Sheet Title	
FP-2	Fire Protection Sheet Title	
FP-3	Fire Protection Sheet Title	

Exhibit 5: Statement of CBE Assurance

(Company Letterhead)

CONTRACTOR ASSURANCE STATEMENT

PROJECT DESCRIPTION: TERMINAL 25 PROJECT, PORT EVERGLADES, FLORIDA

I, _____, (Authorized Official/Agent) on behalf of the _____ (Contractor) hereby agree to comply with the County Business Enterprise (CBE) requirements of the RFP between Royal Caribbean Cruises Ltd., as construction agent for Broward County and (your company) for the Terminal 25 Project, Port Everglades, Florida (the Project).

1. Affirm that your company will comply with the County's non-discrimination policy by providing a non-discrimination Statement and;
2. Acknowledge the twenty-eight percent (28%) CBE percentage goal established on the Project and;
3. Agree to engage in good faith effort solicitation of approved Broward County Small Business Development Program firms to achieve the project goals as indicated in the RFP document.

Authorized Agent of Contractor

Printed Name & Title

Telephone Number/Fax Number

Date: _____

Exhibit 6: Letter of Intent (CBE)
Project Name: Terminal 25 Project, Port Everglades, Florida

LETTER OF INTENT
To Utilize a County Business Enterprise (CBE) Subcontractor/Subconsultant

From (Name of Proposer/Bidder): _____

Firm Address: _____

Project Description: Terminal 25 Project, Port Everglades, Florida

In response to the RFP for the Terminal 25 Expansion at Port Everglades, the undersigned hereby agrees to utilize the CBE firm listed below, if awarded the contract. The undersigned further certifies that the firm has been contacted and properly apprised of the projected work assignment(s) upon execution of the contract with Royal Caribbean Cruises Ltd., as Construction Agent for Broward County.

Name of CBE Firm: _____

Address of CBE Firm: _____

Expiration of CBE Certification: _____ Projected CBE Work Assignment (description of work assignment): _____

Projected Percentage of Prime's Contract Fees to be Awarded to CBE (Percentage %): _____

(Signature of Contractor)

(Date)

Print Name (Contractor) : _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary's Signature _____

Notary Seal: _____

(ACKNOWLEDGEMENT BY THE PROPOSED CBE FIRM)

The undersigned intends to perform work in connection with the above Contract as (check one) _____ an individual _____ a partnership _____ a corporation _____ a joint venture. The undersigned agrees with the prime contractor's/consultant's proposal and further certifies that all information provided herein is true and correct.

(Signature of Construction Agent for County)

(Date)

Print Name (Construction Agent for County): _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary's Signature: _____

Notary Seal: _____

Exhibit 7 - ADDITIONAL SECURITY REQUIREMENTS

Form 1: CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT:
Terminal 25 Project, Port Everglades

Architect: Bermello & Ajamil & Partners Inc.

BID/
CONTRACT
NUMBER: _____

DATE OF
ISSUANCE: _____

CONTRACTOR: «Firm_Name_for_Contract_Merge»
NOTICE TO
PROCEED DATE: _____

TO (Construction Agent):

CONTRACT FOR:

PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The Work performed under the Agreement has been reviewed and found to be substantially complete and all documents required to be submitted by Contractor under the Contract Documents have been received and accepted. The Date of Substantial Completion of the Project or portion thereof designated above is hereby established as _____ which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

DATE OF SUBSTANTIAL COMPLETION

The date, as certified in writing by Construction Agent and the Architect and as finally determined in the sole discretion of Construction Agent and County's designee, on which the construction of the Work, or a portion thereof, as designated by the Construction Agent, is at a level of completion in substantial compliance with the Contract Documents such that all conditions of permits and regulatory agencies have been satisfied and the County or its designee, can enjoy use or occupancy and can use or operate it in all respects for its intended purpose as described in the definition of "Substantial Completion" in the Agreement. A Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) or other alternate municipal/county authorization for limited or conditional occupancy or use by County acceptable to the Construction Agent must be issued for Substantial Completion to be achieved; however, the date of issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy or the

date the Project is available for County's use is not to be determinative of the achievement or date of Substantial Completion.

A list of items to be completed or corrected, prepared by Architect, is attached hereto as the Substantial Completion Punchlist. The failure to include any items on the Substantial Completion Punchlist does not alter the responsibility of Contractor to complete all work in accordance with the Contract Documents.

ARCHITECT:

Bermello & Ajamil & Partners Inc.

By: _____
Name: _____
Title: _____

DATE

In accordance with the Summary of Terms and Conditions, Contractor will complete or correct the work on the list of items attached hereto within the specified number of days from the Date of Substantial Completion.

CONTRACTOR:

BY

DATE

County, through its Construction Agent, accepts the Work or portion thereof designated by County as substantially complete and will assume full possession thereof at _____ (time) on _____ (date).

BROWARD COUNTY BOARD
OF COUNTY COMMISSIONERS

By Construction Agent

DATE

The responsibilities of County and Contractor for security, maintenance, heat, utilities, damage to the work and insurance shall be as follows:

**Form 2: Form 00922: STATEMENT OF COMPLIANCE
(PREVAILING WAGE RATE ORDINANCE NO. 83-72)**

Project Name: Terminal 25
Project _____

The undersigned Contractor hereby swears under penalty of perjury that, during the period covered by the Application for Payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the Project, have been paid in accordance with Broward County Ordinance No. 83-72 as amended from time to time.

Dated _____, 20____,

«Firm_Name_for_Contract_Merge»
Contractor

By _____
(Signature)

By _____
(Name and Title)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ as _____ of _____, known to me to be the person described herein, or who produced _____ as identification, and who did/did not take an oath.

NOTARY PUBLIC:

(Signature)

SEAL

(Print Name)

My commission expires: _____

Form 3: FINAL CERTIFICATE OF PAYMENT:

PROJECT:
(name, address)

Architect:

BID/CONTRACT NUMBER:

TO (Construction Agent):

CONTRACTOR:

CONTRACT FOR:

NOTICE TO PROCEED DATE:

DATE OF ISSUANCE:

All conditions or requirements of any permits or regulatory agencies have been satisfied. The documents required pursuant to the terms and conditions of this Agreement, and the final bill of materials, if required, have been received and accepted. The Work required by the Contract Documents has been reviewed and the undersigned certifies that the Work, including minor corrective work, has been completed in accordance with the provision of the Contract Documents and is accepted under the terms and conditions thereof.

ARCHITECT:

Bermello & Ajamil & Partners Inc.

By: _____

Name: _____

Title: _____

DATE

County, through its Construction Agent, accepts the work as fully complete and will assume full possession thereof at _____ on _____.
(time) (date)

BROWARD COUNTY BOARD
OF COUNTY COMMISSIONERS

By Construction Agent

DATE

Form 4: FORM OF FINAL RECEIPT:

[The following form will be used to show receipt of final payment for this Agreement.]

FINAL RECEIPT FOR CONTRACT NO. _____

Received this _____ day of _____, 20____, from Broward County, the sum of _____ Dollars (\$_____) as full and final payment to Contractor for all work and materials for the Project described as:

This sum includes full and final payment for all extra work and material and all incidentals.

Contractor hereby indemnifies and releases Construction Agent and Broward County from all liens and claims whatsoever arising out of the Agreement and Project.

Contractor hereby certifies that all persons doing work upon or furnishing materials or supplies for the Project have been paid in full. In lieu of this certification regarding payment for work, materials and supplies, Contractor may submit a consent of surety to final payment in a form satisfactory to County.

Contractor further certifies that all taxes imposed by Chapter 212, Florida Statutes (Sales and Use Tax Act), as amended, have been paid and discharged.

[If incorporated sign below.]

CONTRACTOR

ATTEST:

CONTRACTOR NAME

Corporate Secretary or other person
authorized to attest

By: _____
Authorized Signor

(CORPORATE SEAL OR NOTARY)

Print Name and Title

_____ day of _____, 20__

[If not incorporated sign below.]

CONTRACTOR

WITNESSES:

(Name)

By _____

Date: _____

Form 5: FORM OF PERFORMANCE BOND

Project Name: TERMINAL 25 PROJECT, PORT EVERGLADES, FLORIDA

BY THIS BOND, We _____, as Principal, hereinafter called CONTRACTOR, located at:

Business Address: _____

Phone: _____

and _____, as Surety, under the assigned Bond Number _____, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee (hereinafter called "COUNTY"), and to Royal Caribbean Cruises Ltd., as Construction Agent (hereinafter called "Construction Agent"), as Obligee, in the amount of _____ Dollars (\$ _____) for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, CONTRACTOR has by written agreement entered into a Contract, awarded the _____ day of _____, 20____, with Construction Agent which Contract Documents are by reference incorporated herein and made a part hereof, and specifically include provision for liquidated damages, and other damages identified, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if CONTRACTOR:

- 1) Performs the Contract between CONTRACTOR and Construction Agent for construction of the Terminal 25 Expansion at Port Everglades, the Contract being made a part of this Bond by reference, at the times and in the manner prescribed in the Contract; and
- 2) Pays Construction Agent and COUNTY all losses, liquidated damages, expenses, costs and

3) attorney's fees including appellate proceedings, that Construction Agent and COUNTY sustains as a result of default by CONTRACTOR under the Contract; and Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract; then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever CONTRACTOR shall be, and declared by Construction Agent or COUNTY to be, in default under the Contract, Construction Agent and COUNTY having performed Construction Agent and COUNTY obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- a) Complete the Project in accordance with the terms and conditions of the Contract Documents; or
- b) Obtain a bid or bids for completing the Project in accordance with the terms and conditions of the Contract Documents, and upon determination by Surety of the lowest responsible Bidder, or, if Construction Agent and COUNTY elects, upon determination by Construction Agent, COUNTY and Surety jointly of the lowest responsible Bidder, arrange for a contract between such Bidder and Construction Agent, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by COUNTY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by COUNTY to CONTRACTOR.

No right of action shall accrue on this bond to or for the use of any person or corporation other than COUNTY and Construction Agent named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20_____.

ATTEST:

Secretary

(CORPORATE SEAL)

(Name of Corporation)

By _____
(Signature and Title)

(Type Name and Title Signed Above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

Form 6: FORM OF PAYMENT BOND

Project Name: **TERMINAL 25 PROJECT, PORT EVERGLADES, FLORIDA**

KNOW ALL BY THESE PRESENTS:

That we _____, as Principal, hereinafter called Contractor, and _____, as Surety, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee, (hereinafter called "County") and to Royal Caribbean Cruises Ltd., as Construction Agent (hereinafter called "Construction Agent"), as Obligee, in the amount of _____ Dollars (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, Bid/Contract No.: _____, awarded the _____ day of _____, 20____, with County for _____ in accordance with the Contract Documents prepared by _____ which Contract Documents are by reference made a part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. Pays Construction Agent and County all losses, damages, expenses, costs and attorney's fees including appellate proceedings, that Construction Agent and County sustains because of default by Contractor under the Contract; and

2. Promptly makes payments to all claimants as defined by Florida Statute 225.05(1) for all labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract;

THEN CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT, HOWEVER, TO THE FOLLOWING CONDITIONS:

- 2.1. A claimant, except a laborer, who is not in privity with Contractor and who has not received payment for its labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish to the Contractor a notice that he intends to look to the bond for protection.
- 2.2. A claimant who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment.
- 2.3. No action for the labor, materials, or supplies may be instituted against the Contractor or the Surety unless the notices stated under the preceding conditions (2.1) and (2.2) have been given.
- 2.4. Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Section 255.05(2), Florida Statutes.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect the Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20____.

ATTEST:

(Name of Corporation)

Secretary

By _____
(Signature and Title)

(CORPORATE SEAL)

(Type Name and Title signed above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

Form 7: MONTHLY (CBE) UTILIZATION REPORT



MONTHLY (CBE) UTILIZATION REPORT

Report No. _____

Contract #:	Contract Amount:	Date Form Submitted:
Project Description:		
Prime Contractor:	Project Completion Date:	
Contact Person:	Period Ending:	Amt. Paid to Prime:
Telephone#: () () ()		Fax#: () ()

SUBCONTRACTING INFORMATION

TO BE SUBMITTED TO BROWARD COUNTY OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT
CBE Subcontractor

Description of Work	Original Agreed Price	Revised Agreed Price	% of work Completed to Date	Amount Paid This Period	Amount Paid To Date
Total Amount Paid to Subcontractors to Date:					

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

Signature: _____ Title: _____ Date: _____

Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.

OESBD Compliance Form 2009-MUR

**Form 8: Form 00735. PERFORMANCE AND PAYMENT GUARANTY FORM
UNCONDITIONAL LETTER OF CREDIT:**

Beneficiary: _____ Date of Issue: _____

Broward County through its Broward
County
in United States Funds
Board of County Commissioners
Governmental Center
115 South Andrews Avenue
Fort Lauderdale, FL 33301

Issuing Bank's No. _____
Applicant: _____
Amount: _____
Expiry: _____

Royal Caribbean Cruises Ltd. ("Construction
Agent")
1050 Caribbean Way
Miami, Florida 33132

Bid/Contract Number: _____

We hereby authorize you to draw on _____ (Bank, Issuer name)
at _____ (Branch address) _____ by order of and for the account of _____
(Contractor) _____ up to an aggregate amount, in United States Funds, of
_____ available by your drafts at sight, accompanied by:

A signed statement from the Construction Agent that the drawing is due to default in
performance of certain obligations on the part of _____
agreed upon by (contractor) and between Royal Caribbean Cruises Ltd., as construction
agent for Broward County and _____ (Contractor, Applicant, Customer)
pursuant to the Bid/Contract No. _____ for _____ (Name of Project)
and Section 255.05, Florida Statutes.

Drafts must be drawn and negotiated not later than _____
(Expiration date)

Drafts must bear the clause: "Drawn under Letter of Credit No. _____
of _____ dated _____"

This Letter of Credit shall be renewed for successive periods of one (1) year each unless we
provide the Construction Agent with written notice of our intent to terminate the credit herein

extended, which notice must be provided at least thirty (30) days prior to the expiration date of the original term hereof or any renewed one (1) year term. Notification to Construction Agent and Broward County that this Letter of Credit will expire prior to performance of the Contractor's obligations will be deemed a default.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, or amplified by reference to any documents, instrument, or agreement referred to herein or to which this Letter of Credit is referred or this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement.

We hereby agree with the drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored upon presentation to the drawee.

Obligations under this Letter of Credit shall be released one (1) year after the final completion of the Project by the

(contractor)

This Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce (1984 revision), Publication No. 400 and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, Florida law shall prevail. If a conflict between the law of another state or country and Florida law should arise, Florida law shall prevail.

Authorized Signature

Form 9: Form 00924. CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS

Project Title: Terminal 25 Project, Port Everglades, Florida

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all subcontractors all undisputed contract obligations for labor, services, or materials provided on this project in accordance with this Agreement, except as provided in paragraph 2 below.
2. The following subcontractors have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

Dated _____, 20__

Contractor

By _____
(Signature)

By _____
(Name and Title)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, 20__, by _____ as _____ of _____, known to me to be the person described herein, or who produced _____ as identification, and who did/did not take an oath.

NOTARY PUBLIC:

(Signature)

SEAL

(Print Name)

My commission expires: _____

Form 10: SCRUTINIZED COMPANIES LIST CERTIFICATION

This certification form should be completed and submitted with your proposal but must be completed and submitted prior to award.

The vendor, by virtue of the signature below, certifies that:

- a. The vendor, owners, or principals are aware of the requirements of Section 287.135, Florida Statutes, regarding companies on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
- b. The vendor, owners, or principals, are eligible to participate in this solicitation and not listed on either the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
- c. If awarded the contract, the vendor, owners, or principals will immediately notify the County in writing if any of its principals are placed on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

(Authorized Signature)

(Print Name and Title)

(Name of Firm)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, 20___, by _____ as _____ of _____, known to me to be the person described herein, or who produced _____ as identification, and who did/did not take an oath.

NOTARY PUBLIC:

(Signature)

SEAL

(Print Name)

My commission expires: _____

Form 11: INSURANCE REQUIREMENTS

Insurance Requirement – Exhibit “C”

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises–Operations <input checked="" type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations - Ten years <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other:	Bodily Injury		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$1 mil	\$2 mil
	Personal Injury		
BUSINESS AUTO LIABILITY* COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Scheduled <input checked="" type="checkbox"/> Any Auto	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 1 mil	
<input checked="" type="checkbox"/> EXCESS/UMBRELLA LIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Additional Insured endorsement is required	\$ 50 mil	
<input checked="" type="checkbox"/> WORKERS' COMPENSATION	Chapter 440 FS	STATUTORY	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
<input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	(each accident)	\$ 1 mil	
<input type="checkbox"/> PROFESSIONAL LIABILITY ~ E&O	(each accident)	\$	\$
	Extended coverage period		
<input checked="" type="checkbox"/> BUILDER'S RISK (PROPERTY) "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County.	Maximum Deductible: \$25 k DED for WIND or WIND & FLOOD not to exceed 5% of completed value CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value form
<input checked="" type="checkbox"/> POLLUTION LIABILITY OR ENVIRONMENTAL IMPAIRMENT LIABILITY WITH CLEAN-UP COSTS	Claims-made form \$ 2 mil w/ Extended Reporting Period of 3 yrs. Deductible not to exceed: \$ 100 k		\$ 5 mil
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES Broward County and Royal Caribbean Cruises Ltd. are listed as Additional Insured on the General Liability policy. Broward County reserves rights to place coverage for the Builder's Risk and Contractor Pollution Liability policies. Reference: TERMINAL 25 CONSTRUCTION IMPROVEMENTS			
CERTIFICATE HOLDER: Broward County 1850 Eller Drive Fort Lauderdale, FL 33316 Attn: John Foglesong			


CARLOS DE LA GUERRA
 RISK MANAGEMENT & CONTRACTS
 BUSINESS ADMINISTRATION DIVISION
 PORT EVERGLADES

Digitally signed by CARLOS DE LA GUERRA
 DN: cn=Carlos de la Guerra, o=FL
 Risk Management & Contracts, email=carlos.de.la.guerra@fl.gov
 Date: 2017.05.17 10:20:05 -0500
 Adobe Acrobat version: 11.0.19

Risk Management Division

EXHIBIT E-2
LIMITED NOTICE TO PROCEED

EXHIBIT E-2

LIMITED NOTICE TO PROCEED



ROYAL CARIBBEAN CRUISES LTD.

_____, 2017

[CONTRACTOR]

**Re: Limited Notice to Proceed –
Cruise Passenger Terminal 25 Expansion (the “Project”)
Located at the Port Everglades in Broward County, Florida**

Ladies and Gentlemen:

Royal Caribbean Cruises Ltd. (“Construction Agent”), as construction agent for Broward County (“County”), has selected [CONTRACTOR] as the contractor (“Contractor”) for the construction of a project comprising of the construction of certain improvements to Cruise Terminal 25 and affected ground transportation area improvements at Port Everglades in Broward County, Florida (the “Work”).

A construction contract (the “Contract”) for the Work has been drafted and is being reviewed by both parties using the form CM at Risk contract that was enclosed in the Request for Proposal issued by Construction Agent. The Contract has yet to be finalized and executed by the Owner and Contractor. Notwithstanding that the Contract has not been finalized and executed, in order to minimize or eliminate any delay in the performance of the Work, Owner authorizes Contractor to proceed with a limited portion of the pre-construction services included in the Work, more particularly described on Exhibit A attached hereto. This authorization is subject to the following terms and conditions:

1. The cost of the work authorized by this Limited Notice to Proceed shall not exceed _____ and ___/100 Dollars (\$ _____) inclusive of all Federal, State, and Local taxes.

[CONTRACTOR]
_____, 2017
Page 2

2. The Work permitted hereunder shall be commenced on _____, 2017, and shall be completed by not later than _____, 2017.

3. The parties will immediately proceed to finalize the Contract. Upon finalization and execution of the Contract, this Limited Notice to Proceed shall automatically merge into the Contract and all work performed and payments made under this Limited Notice to Proceed shall be deemed performed and made pursuant to the Contract. Notwithstanding that the Contract has yet to be finalized and executed, to the greatest extent possible all work performed and payments made under this Limited Notice to Proceed shall be governed by the terms and conditions set forth in the Contract, including but not limited to the indemnification by the Contractor set forth therein.

4. No work shall be commenced on site without delivery to Construction Agent of evidence of the insurance coverages for the Contractor, subcontractors and sub-subcontractors set forth in Contract.

Please confirm your acceptance of the above terms and conditions by signing the enclosed copy of this Limited Notice to Proceed where indicated and returning it to the undersigned. This letter may be executed in counterparts.

Sincerely,

ROYAL CARIBBEAN CRUISES LTD.,
as Construction Agent for Broward County

By: _____
Name: _____
Title: _____

Agreed to and accepted this ___ day
of _____, 2017

[CONTRACTOR]

By: _____
Name: _____
Title: _____

[CONTRACTOR]
_____, 2017
Page 3

EXHIBIT A
Scope of Services

EXHIBIT E-3
FORMS OF PAYMENT BOND AND PERFORMANCE BOND

FORM OF PERFORMANCE BOND

Project Name: **TERMINAL 25 PROJECT, PORT EVERGLADES, FLORIDA**

BY THIS BOND, We _____, as Principal, hereinafter called CONTRACTOR, located at:

Business Address: _____

Phone: _____

and _____, as Surety, under the assigned Bond Number _____, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee (hereinafter called "COUNTY"), and to Royal Caribbean Cruises Ltd., as Construction Agent (hereinafter called "Construction Agent"), as Obligee, in the amount of _____ Dollars (\$ _____) for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, CONTRACTOR has by written agreement entered into a Contract, awarded the _____ day of _____, 20____, with Construction Agent which Contract Documents are by reference incorporated herein and made a part hereof, and specifically include provision for liquidated damages, and other damages identified, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if CONTRACTOR:

- 1) Performs the Contract between CONTRACTOR and Construction Agent for construction of the Terminal 25 Expansion at Port Everglades, the Contract being made a part of this Bond by reference, at the times and in the manner prescribed in the Contract; and
- 2) Pays Construction Agent and COUNTY all losses, liquidated damages, expenses, costs and attorney's fees including appellate proceedings, that Construction Agent and COUNTY sustains as a result of default by CONTRACTOR under the Contract; and
- 3) Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract; then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever CONTRACTOR shall be, and declared by Construction Agent or COUNTY to be, in default under the Contract, Construction Agent and COUNTY having performed Construction Agent and COUNTY obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- a) Complete the Project in accordance with the terms and conditions of the Contract Documents; or

- b) Obtain a bid or bids for completing the Project in accordance with the terms and conditions of the Contract Documents, and upon determination by Surety of the lowest responsible Bidder, or, if Construction Agent and COUNTY elects, upon determination by Construction Agent, COUNTY and Surety jointly of the lowest responsible Bidder, arrange for a contract between such Bidder and Construction Agent, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by COUNTY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by COUNTY to CONTRACTOR.

No right of action shall accrue on this bond to or for the use of any person or corporation other than COUNTY and Construction Agent named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

[Signature page to follow]

Signed and sealed this _____ day of _____, 20_____.

ATTEST:

Secretary

(CORPORATE SEAL)

(Name of Corporation)

By _____
(Signature and Title)

(Type Name and Title Signed Above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

FORM OF PAYMENT BOND

Project Name: TERMINAL 25 PROJECT, PORT EVERGLADES, FLORIDA

KNOW ALL BY THESE PRESENTS:

That we _____, as Principal, hereinafter called Contractor, and _____, as Surety, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee, (hereinafter called "County") and to Royal Caribbean Cruises Ltd., as Construction Agent (hereinafter called "Construction Agent"), as Obligee, in the amount of _____ Dollars (\$_____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, Bid/Contract No.: _____, awarded the _____ day of _____, 20____, with County for _____ in accordance with the Contract Documents prepared by _____ which Contract Documents are by reference made a part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. Pays Construction Agent and County all losses, damages, expenses, costs and attorney's fees including appellate proceedings, that Construction Agent and County sustains because of default by Contractor under the Contract; and
2. Promptly makes payments to all claimants as defined by Florida Statute 225.05(1) for all labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract;

THEN CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT, HOWEVER, TO THE FOLLOWING CONDITIONS:

- 2.1. A claimant, except a laborer, who is not in privity with Contractor and who has not received payment for its labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish to the Contractor a notice that he intends to look to the bond for protection.
- 2.2. A claimant who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment.

- 2.3. No action for the labor, materials, or supplies may be instituted against the Contractor or the Surety unless the notices stated under the preceding conditions (2.1) and (2.2) have been given.
- 2.4. Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Section 255.05(2), Florida Statutes.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect the Surety's obligation under this Bond.

[Signature page to follow]

Signed and sealed this ____ day of _____, 20__.

ATTEST:

Secretary

(CORPORATE SEAL)

(Name of Corporation)

By _____
(Signature and Title)

(Type Name and Title signed above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

EXHIBIT F
LETTERS OF INTENT

EXHIBIT F

Letter of Intent (CBE)

**LETTER OF INTENT
To Utilize a County Business Enterprise (CBE) Subcontractor/Subconsultant**

From (Name of Proposer/Bidder): _____

Firm Address: _____

Project Description: _____

In response to Broward County's RLI/Bid No. _____, the undersigned hereby agree to utilize the CBE firm listed below, if awarded the contract. The undersigned further certify that the firm has been contacted and properly apprised of the projected work assignment(s) upon execution of the contract with Broward County.

Name of CBE Firm: _____

Address of CBE Firm: _____

Expiration of CBE Certification: _____ Projected CBE Work Assignment (description of work assignment): _____

Projected Percentage of Prime's Contract Fees to be Awarded to CBE (Percentage %): _____

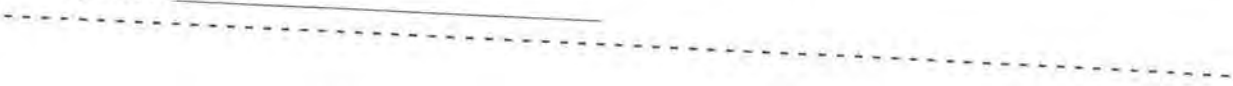
(Signature of Owner or Authorized Rep. **Prime**) (Date)

Print Name (owner or authorized Rep. **Prime**): _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary's Signature _____

Notary Seal: _____



(ACKNOWLEDGEMENT BY THE PROPOSED CBE FIRM)

The undersigned intends to perform work in connection with the above Contract as (check one) _____ an individual _____ a partnership _____ a corporation _____ a joint venture. The undersigned agrees with the prime contractor's/consultant's proposal and further certifies that all information provided herein is true and correct.

(Signature of Owner or Authorized Rep. **CBE**) _____ (Date)

Print Name (owner or authorized Rep. **CBE**): _____

Subscribed and sworn to before me this _____ day of _____ 20____.

Notary's Signature: _____

Notary Seal: _____