

**AGREEMENT FOR ANNUAL CONTINUING
CONSTRUCTION MANAGEMENT SERVICES**

(For Use on Minor Projects)

THIS AGREEMENT FOR ANNUAL CONTINUING CONSTRUCTION MANAGEMENT SERVICES (the “Agreement”) is made effective as of _____ by and between **THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES** (“Owner”), a public body corporate of the State of Florida, and **CM Name, Address of CM Firm**, Federal I.D. No. _____ (“Construction Manager”), which is authorized to do business in Florida.

WITNESSETH:

WHEREAS, Owner solicited statements of qualifications from interested construction managers for the provision of continuing construction management services on certain of the Owner’s construction projects as determined by the Owner; and

WHEREAS, based on Construction Manager’s interview, qualifications statement, and related submissions, Owner has selected Construction Manager for such purpose; and

WHEREAS, Owner and Construction Manager desire to enter into this Agreement regarding such services; and

WHEREAS, the projects to be performed under this Agreement may include new construction, renovation, remodeling, and other building maintenance, repairs, or corrections, on the University of Florida-owned or controlled properties.

NOW THEREFORE, for and in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Construction Manager agree as follows:

ARTICLE 1. GENERAL DESCRIPTION OF SERVICES

1.1 Nature of Projects. The projects for which Construction Manager may provide services under this Agreement (each a “Project” hereunder) may include, but are not limited to, new construction, renovation, remodeling, reroofing, and other building maintenance, equipment installation, pre-engineered metal buildings, greenhouses, pole barns, athletic facilities, and fire code corrections, either on the University of Florida campus or on off-campus properties owned or controlled by the University of Florida, provided Construction Costs for each project (hereinafter defined) do not exceed \$4,000,000 or such greater amount as may be permitted by law. Each Project assigned to Construction Manager hereunder shall be identified and further described utilizing the form attached hereto as **Exhibit A**.

1.2 Definition of Services. The Construction Manager agrees to furnish its best skill and judgment and to cooperate with the Professional, where applicable, in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and to use its best efforts to complete each project in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager agrees to furnish construction services as set forth herein and required for completion of each Project on a Guaranteed Maximum Price (hereinafter defined) basis. Construction Manager represents that it is thoroughly familiar with and understands the requirements of the referenced Project types and that it is experienced in the administration and construction of building projects of the types and scopes referenced above. Construction Manager represents to Owner that it has all necessary construction education, skill, knowledge, and experience required for these Projects and will maintain, at all times during the term of this Agreement, such personnel on its staff to provide the services contemplated hereby within the time periods required for each Project. In addition, Construction Manager represents that it has, and all of the subcontractors performing services under this Agreement will have, all applicable licenses required by the State of Florida to perform such services. Construction Manager acknowledges that it is not guaranteed

nor entitled to provide services to Owner in connection with any particular Project by virtue of entering into this Agreement with Owner, and that Owner may, in its sole discretion, decline to assign any Project to Construction Manager.

1.3 Project Team. The Construction Manager, the Owner and the Professional (the "Project Team") will work as a team through construction completion of each project. The Construction Manager shall provide leadership to the Project Team on all matters relating to construction. The Professional will provide leadership to the Project Team on all matters relating to design. When performing any services under this Agreement, the Construction Manager shall utilize the key personnel described in Exhibit B, attached hereto and incorporated herein by reference. In the event any such personnel discontinue employment with Construction Manager, Construction Manager shall promptly replace such personnel with individuals approved by Owner, in writing, which approval will not be unreasonably withheld.

1.4 Project Schedule / Time of the Essence. Construction Manager will provide Owner with a preliminary schedule covering the construction of the Project which will be incorporated herein as Exhibit C. This preliminary schedule shall serve as the framework for the subsequent development of all detailed construction schedules described herein and in the General Terms and Conditions. The Construction Manager shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the Project schedule, subject to delays in the schedule not the fault of Construction Manager or its subcontractors. Time is of the essence in the performance of this Agreement.

1.5 Preparation/Sufficiency of Site. The Construction Manager shall, among other things, (i) visit and thoroughly inspect the Project Site and any structure(s) or other manmade features to be modified and become familiar with local conditions under which the Project will be constructed and operated; (ii) if applicable, familiarize itself with the survey, including the location of all existing buildings, utilities, conditions, streets, equipment, components and other attributes having or likely to have an impact on the Project; (iii) familiarize itself with the Owner's layout and design requirements, conceptual design objectives, and budget for the Project; (iv) familiarize itself with pertinent Project dates, including the Project schedule set forth on Exhibit C, (v) review and analyze all Project geotechnical, Hazardous Substances, structural, chemical, electrical, mechanical, and construction materials tests, investigations and recommendations; and (vi) gather any other information necessary for a thorough understanding of the Project. If the Project involves modifications to any existing structure(s) or other man-made feature(s) on the Project site, the Construction Manager shall also review all as-built and record drawings, plans and specifications of which Construction Manager has been informed by Owner about and thoroughly inspect the existing structure(s) and man-made feature(s) to identify existing deficiencies and ascertain the specific locations of pertinent structural components. Claims by Construction Manager resulting from Construction Manager's failure to familiarize itself with the Site or pertinent documents shall be deemed waived.

1.6 Contract for Construction. The "Contract for Construction," which constitutes the entire agreement between Owner and Construction Manager for each project, consists of: this Agreement and all exhibits hereto; Owner's General Terms and Conditions; special conditions or guidelines as set forth in Exhibit A, if any; the Construction Documents for each specific project (inclusive of non-technical specifications); any amendments or addenda executed by the Owner and the Construction Manager hereafter; and Owner-approved change order(s) or field orders. Documents not included or expressly contemplated in this section do not, and shall not, form any part of the Contract for Construction. Without limiting the generality of the foregoing, shop drawings and other submittals from the Construction Manager or its subcontractors and suppliers do not constitute a part of the Contract for Construction.

ARTICLE 2. OWNER'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES

2.1 Project Information. Owner will provide Construction Manager with information regarding Owner's requirements for the Project as set forth in either (i) Owner's Facilities Program document; (ii) documents provided by Owner's professional consultants; or (iii) another document describing Project scope.

2.2 Owner's Budget. The Owner shall establish and update a budget for the Project, including the amount allocated for construction, the Owner's other costs, and reasonable contingencies related to these costs as appropriate.

2.3 Owner's Representative. The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project.

2.4 Time for Performance. The Owner shall review and approve or take other appropriate action on all design submittals within the timeframes set forth in **Exhibit C**.

2.5 Purpose of Owner's Review. Owner's review, inspection, or approval of any Work, Applications for Payment, or other submittals shall be solely for the purpose of determining whether the same are generally consistent with Owner's Project Scope and requirements. No review, inspection, or approval by Owner of such Work or documents shall relieve Construction Manager of its responsibility for the performance of its obligations under the Contract for Construction or the accuracy, adequacy, fitness, suitability, or coordination of the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, Design Document, or Construction Documents shall not relieve Construction Manager of responsibility for the performance of its obligations under the Contract for Construction. Payment by Owner pursuant to the Contract for Construction shall not constitute a waiver of any of Owner's rights under the Contract for Construction or at law, and Construction Manager expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by Owner. Notwithstanding the foregoing, prompt written notice shall be given by the Owner or Professional to the Construction Manager if the Owner becomes aware of any fault or defect in the Project or non-conformance with the Contract for Construction.

2.6 Status of Owner. The Owner shall not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Construction Manager, for any of the foregoing purposes, be deemed the agent of the Owner.

2.7 Owner's Utilities. The Construction Manager shall be responsible to provide and pay for consumption of, and connections to, utilities required for temporary service and construction unless otherwise directed by the Owner.

ARTICLE 3. CONSTRUCTION MANAGER'S SERVICES

3.1 The Construction Manager's services under this Agreement and with respect to any Project may include General Project Services, Pre-Construction Services, and/or Construction Services. Those services and the scope of work shall be defined for each Project in completed **Exhibits A-F**.

3.2 For each Project, Construction Manager shall commence performance of Construction Services within ten (10) days after receipt from the Owner of both the executed Purchase Order for such project and Notice to Proceed (a form of which is attached hereto as **Exhibit D**), accompanied by completed **Exhibits A, B, C, E, and F**, whichever is received later. The parties acknowledge that (i) the Owner may determine not to proceed with Construction Services, (ii) performance of Pre-Construction Services, if required, may overlap performance of Construction Services, and (iii) categories of Work performed during Construction Services may be performed in separate phases.

3.3 General Project Services. The Construction Manager agrees to:

3.3.1 Provide all services required to professionally complete the Work in an expeditious and economical manner consistent with this Contract for Construction and the best interests of the Owner.

3.3.2 Endeavor to develop, implement and maintain, in consultation with the Owner, Professional, and the Subcontractors, a spirit of cooperation, collegiality, and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Project is deemed a success by all parties.

3.3.3 Perform its services in accordance with schedule requirements.

3.3.4 Familiarize itself with Owner's Design and Commissioning Services Guide and Design and Construction Standards, which can both be found on Owner's website at www.facilities.ufl.edu.

3.3.5 Work with Owner and Professional to pursue Owner's goal of obtaining 3rd-party sustainable building certification program for the Project, at the level set forth on **Exhibit E**.

3.3.6 Participate in, and cooperate with, design phase, construction phase, and post-occupancy commissioning, validation, and other quality assurance and quality control processes.

3.3.7 Complete the Work by the required date of Substantial Completion. The Construction Manager shall submit an initial Construction Schedule by the date set forth on **Exhibit E**; a final Construction Schedule with each Guaranteed Maximum Price proposal; and revised Construction Schedules in accordance with the General Terms and Conditions. The Construction Schedule shall complement, and shall not conflict with, the design schedule.

3.3.8 Comply with Owner's policies, project management guides, and General Terms and Conditions applicable to this Agreement as referenced in Section 1.6 herein and **Exhibit A**.

3.4 Pre-Construction Services. If required by the Project and initiated by the Owner, the Construction Manager shall provide the following Pre-Construction Services:

3.4.1 The Construction Manager shall familiarize itself with the approved Scope for the Project and actively and jointly participate with the Owner and the Professional in formation of the final Project design. The phasing of, and schedule for, design for this Project are set forth on **Exhibit C**.

3.4.2 Submit for Owner review within thirty (30) calendar days of the Owner's execution of this Agreement:

- (i) Project reporting procedures;
- (ii) Quality Control and Testing Program; and
- (iii) Safety Program.

3.4.3 The Professional is required, in accordance with schedule requirements, to provide design concepts, narratives, and drawings. At each phase of design, in keeping with the Owner's goals and the Facilities Program for the Project, the Construction Manager shall familiarize itself with these design documents and, in accordance with the Schedule on **Exhibit C**, provide the Owner and Professional with a report detailing construction issues and concerns relating to the design, with detail appropriate to the phase of design. Without limitation of the foregoing, each construction report shall:

- (i) include an estimate of overall construction cost, with Construction Manager's contingency associated with the Cost of the Work at no greater percentages than the percentages set forth on **Exhibit E**, including a comparison of the estimate to Owner's budget for construction;
- (ii) identify conceptual decisions necessary to prepare accurate cost reports with the fewest assumptions, qualifications and exclusions;
- (iii) include an analysis and evaluation of jobsite management, site logistics, and schedule considerations;
- (iv) include an analysis and evaluation of the constructability of the design concepts, narratives, or drawings;
- (v) include an analysis and evaluation of the design concepts, narratives, or drawings in regard to the completeness of intended bid categories, conflicts or overlaps in the divisions of the Work, design details affecting construction including, without limitation, unusual or custom materials, value analysis, identification of long-lead materials affecting the Construction Schedule, availability of labor, and other factors affecting construction and, in the report provided during the Construction Documents Phase, suggestions for alternatives for matters which may delay the construction schedule;
- (vi) address problems, conflicts, defects or deficiencies in the design concepts and offer resolutions of same; and
- (vii) identify any other issues which Construction Manager reasonably believes may have a negative impact on the Project schedule, budget or performance.

3.4.4 The Construction Manager and the Professional shall jointly schedule and attend regular meetings with the Owner and evaluate the preliminary design drawings. The Professional shall prepare and distribute

minutes of these meetings, and the Construction Manager shall verify the accuracy and completeness of the minutes.

3.4.5 The Construction Manager shall develop a comprehensive jobsite management and logistics plan for the Owner's review. This plan shall be submitted no later than the date set forth on **Exhibit E**.

3.4.6 The Construction Manager shall, in accordance with schedule requirements, assist the Professional with the resolution of all problems, conflicts, defects or deficiencies identified during the review and evaluation of the Construction Documents.

3.4.7 At each phase of design, the Construction Manager shall work with the Professional and/or the Owner's cost consultant to reconcile, and make recommendations on, the differences between the estimates each has prepared at that phase of design. If the final estimates of the Construction Cost by the Construction Manager and the Professional and/or the Owner's cost consultant differ materially, the Construction Manager and Professional and/or the Owner's cost consultant shall meet promptly to reconcile the discrepancies between their estimates so as to permit submission to the Owner of a final estimate of Construction Cost on which both the Professional and the Construction Manager agree.

3.4.8 If the Owner elects to phase and/or "fast track" portions of the construction (such portions being described on **Exhibit E**), multiple Guaranteed Maximum Price proposals will be required.

3.4.9 The Construction Manager understands and acknowledges the Owner's intent that the Project will be completed within the budget set by Owner for the Project. Accordingly, throughout the Pre-Construction Services phase, the Construction Manager shall keep Owner informed if it believes that the Project may not be completed within Owner's budget, the reasons why it cannot be, and the Construction Manager's proposed solutions therefor.

3.5 Guaranteed Maximum Price Proposal

3.5.1 At the time set forth on **Exhibit E**, which shall be prior to performance of Construction Services, the Construction Manager shall prepare and deliver to the Owner, with a copy to the Professional, a Guaranteed Maximum Price ("GMP") proposal. The Construction Manager shall, at a minimum, include in the GMP proposal:

- (i) a recital of the specific Construction Documents, including drawings, specifications, and all addenda thereto, used in preparation of the GMP proposal;
- (ii) the five (5) elements of the GMP:
 - a. Guaranteed Maximum Construction Manager's Staffing Cost (hereinafter defined), detailed by expense category
 - b. Guaranteed Maximum General Conditions Cost (hereinafter defined), including bond & insurance costs, detailed by expense category
 - c. Guaranteed Maximum Cost of the Work (hereinafter defined), detailed by each subcontract, trade, or bid division;
 - d. the Construction Manager's Contingency for the Work; and
 - e. Guaranteed Maximum for Construction Manager's Overhead and Profit.
- (iii) a draft schedule of values;
- (iv) a description of all other inclusions to, or exclusions from, the GMP;
- (v) all assumptions and clarifications;
- (vi) List all construction document pages and specification divisions ; and
- (vii) the final Construction Schedule.

3.5.2 The Construction Manager acknowledges that the Construction Documents may be incomplete at the time the Construction Manager delivers the GMP proposal, and that the Construction Documents may

not be completed until after commencement of the Work. Nevertheless, the GMP proposal shall include all costs for the Work required by the completed Construction Documents, and if the GMP proposal is accepted by the Owner, the Construction Manager shall be entitled to no increase in the GMP if the Work required by the completed Construction Documents (i) is required by the Contract For Construction, (ii) is reasonably inferable from the incomplete documents, (iii) is consistent with the Owner's programmatic goals and objectives, (iv) is consistent with the Owner's Design and Construction Standards and the general industry standards for completion of the Work, (v) is not a substantial enlargement of the scope of Work or (vi) substantially conforms to the nature, type, kind or quality of Work depicted in the incomplete documents.

3.5.3 If the GMP proposal is unacceptable to the Owner, the Owner shall promptly notify the Construction Manager in writing. Within fourteen (14) calendar days of such notification, the Owner, Professional and Construction Manager shall meet to discuss and resolve any differences, inconsistencies, or misunderstandings and to negotiate recommended adjustments to the Work and/or to the GMP.

3.5.4 The Owner may, at its sole discretion and based upon its sole judgment, (i) indicate its acceptance of a GMP proposal; (ii) reject a GMP proposal; (iii) terminate the Project; or (iv) proceed to construct the Project using a party or parties other than the Construction Manager.

3.5.5 If the Owner rejects a GMP proposal, neither party shall have any further obligation under the Contract for Construction.

3.5.6 If the Owner accepts a GMP proposal, the parties shall complete and execute **Exhibit D**, and the Owner shall cause a Purchase Order to be initiated and issue a written Notice to Proceed to the Construction Manager, completion of the latter of which will establish the date construction is to commence (the "Commencement Date"). The Construction Manager shall not expend any monies for construction prior to receipt of such Authorization and Purchase Order without the written approval of the Owner.

3.5.7 Price Guarantees

- (i) Upon execution of **Exhibit D**, the Construction Manager guarantees that the sum of (i) the actual Cost of the Work, (ii) Construction Manager's Contingency, (iii) Construction Manager's Staffing Costs, (iv) General Conditions Cost, and (v) Construction Manager's Overhead and Profit, shall not exceed the amount set forth in the agreed upon GMP. All costs or expenses that would cause this sum to exceed the GMP shall be borne by the Construction Manager unless adjusted by Owner approved change order.
- (ii) Upon execution of **Exhibit D**, the Construction Manager guarantees that the actual Cost of the Work, Construction Manager's Staffing Costs, General Conditions Cost and Construction Manager's Overhead and Profit shall not exceed the guaranteed maximum for each such category and that all costs or expenses that would cause any of these individual categories to exceed the guaranteed maximum for each such category in the agreed upon GMP shall be borne by the Construction Manager unless adjusted by Owner approved change order.
- (iii) Upon execution of **Exhibit D**, the Construction Manager certifies that all factual unit costs supporting the GMP proposal are accurate, complete and current at the time of negotiations; and that any other factual unit costs that may be furnished to the Owner in the future to support any additional amounts that may be authorized will also be accurate and complete. Payments to the Construction Manager shall be reduced if the Owner determines such amounts were originally included due to materially inaccurate, incomplete, or non-current factual unit costs.
- (iv) Upon execution of **Exhibit D**, the Construction Manager guarantees that to the extent the accepted GMP includes contingency, use of contingency shall be approved by Owner by change order prior to expenditure by the Construction Manager.

3.6 **Construction Services**

3.6.1 Trade Contractor Selection Bidding and Negotiation

3.6.1.1 In accordance with Owner's policies on the subject in effect at the time Construction Manager commences construction, the Construction Manager shall prepare and assemble document

packets for use in bidding subcontracts. Such packaging of the Work shall be broken down to maximize both competition and the involvement of small businesses in accordance with Owner's goals enumerated in Section 9.8 hereof.

3.6.1.2 The Construction Manager shall develop subcontractor and supplier interest, including small businesses, for each division of the Work. The Construction Manager shall pre-qualify proposed subcontractors using a pre-qualification form approved by the Owner, which shall include, at a minimum, proof of licensure where applicable.

3.6.1.3 The Construction Manager shall, in accordance with Owner's policies and Project Management Guides in effect at the time the Construction Manager commences construction, competitively bid each trade category or, if approved by Owner, negotiate for the performance of a particular trade category.

3.6.1.4 The Construction Manager shall use its best efforts to obtain bids which are less than the final GMP estimates.

3.6.1.5 The Construction Manager shall conduct bid openings in the presence of the Owner's representative. The Construction Manager shall provide the Owner with a copy of its preliminary bid tabulation and copies of all bids.

3.6.1.6 The Construction Manager shall, for each subcontract, trade or bid division:

- (i) determine the final bid amounts, having reviewed and clarified the scope of Work in detail with bidders to determine which bids are the lowest bids and are complete but do not include duplicate scope items;
- (ii) prepare and furnish to the Owner a final bid tabulation summary which includes by subcontract, trade and/or bid division, the applicable final GMP estimate and the related final bid amount and the details of all scope clarifications for Owner's review and approval;
- (iii) if requested by Owner, provide a list of all potential Direct Purchase Materials (hereinafter defined);
- (iv) identify to the Owner in writing the subcontractors to which the Construction Manager recommends award of subcontracts; and
- (v) award and enter into a subcontract between itself and each subcontractor which it has recommended in accordance with this Agreement unless otherwise notified by the Owner.

3.6.1.7 No portion of the Work may be performed by the Construction Manager or its affiliates except with Owner's written approval in accordance with Owner's policies on the subject in effect at the time the Construction Manager commences construction.

3.6.1.8 The Construction Manager shall award Trade Contracts representing ninety percent (90%) of the Cost of the Work or more, within the timeframe outlined in **Exhibit D**.

3.6.1.9 The Construction Manager shall promptly inform the Owner in writing of any proposed replacements to the list of subcontractors and suppliers in the final bid tabulation sheet provided to Owner, the reasons therefore, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right, in its reasonable discretion, to reject any proposed replacement if such proposed replacement fails to meet any criteria or requirements established for subcontractors performing such portion of, or for, the Work.

3.6.2 Construction Supervision

3.6.2.1 Commencing with the award of the first subcontract and terminating on the date of Final Completion, the Construction Manager shall provide the services described herein.

3.6.2.2 The Construction Manager shall, as the Owner's construction representative during construction, advise and consult with the Owner and the Professional, and provide administration of the Construction Documents.

3.6.2.3 The Construction Manager shall supervise and direct the Work at the Site. The Construction Manager shall, at a minimum, staff the Project Site with personnel who shall:

- (i) supervise and coordinate the Construction Manager's personnel and act as its primary liaison with the Owner and the Professional;
- (ii) coordinate trade contractors and suppliers, and supervise Site construction management services;
- (iii) be familiar with all trade divisions and trade contractors' scopes of Work, all applicable building codes and standards, and the Contract for Construction;
- (iv) check, review, coordinate and distribute shop drawings and check and review materials delivered to the Site, regularly review the Work to determine its compliance with the Construction Documents and the Contract for Construction, confer with the appropriate Owner's consultant(s) as necessary to assure acceptable levels of quality;
- (v) prepare and maintain Project records, including process documents and daily logs;
- (vi) schedule and conduct weekly progress meetings with subcontractors to review such matters as jobsite safety, job procedures, construction progress, schedule, shop drawing status and other information as necessary and provide notification of, and minutes from, such meetings to Owner and Professional;
- (vii) schedule and conduct weekly (or at an interval agreed upon) progress meetings with the Owner and Professional to review such matters as construction progress, schedule, shop drawing status, and other information as necessary;
- (viii) make provision for Project security to protect the Project site and materials stored off-site against theft, vandalism, fire and accidents as required by Owner's General Terms and Conditions.
- (ix) promptly reject any Work which does not conform to the Construction Documents or which does not comply with any applicable law, statute, building code, rule or regulation of any public authority or agency of which it is aware, immediately notifying the Professional and the Owner in writing when it has rejected any Work;
- (x) comply with, and cause its subcontractors and suppliers to comply with, the Project Construction Schedule and applicable sub-schedules. The Construction Manager shall obtain and review schedules from subcontractors and suppliers, coordinate sub-schedules with the Construction Schedule, and enforce compliance with the all applicable schedules to insure timely completion of the Work. If at any time the Project is delayed, the Construction Manager shall immediately notify the Owner and the Professional of the probable cause(s) and possible alternatives and make recommendations to minimize expense and delay to the Owner; and
- (xi) provide documentation necessary to the Professional for, and otherwise assist the Professional with, the preparation of the final "as-built Revit record drawings".

3.6.2.4 In accordance with Owner's agreement with the professional working on the Project, the professional will visit the Project Site at intervals appropriate to the stage of construction to familiarize itself with the progress and quality of the Work and to inspect the Work. The Construction Manager shall request that the Professional visit the Site at additional times as the Construction Manager deems necessary to attend meetings, inspect the Work, and render interpretations regarding the Work necessary for the proper execution of the Work. The Professional's interpretations and decisions shall be final regarding the Construction Documents and the Work.

3.6.3 Direct Purchase Program. The Owner may elect to implement a direct purchase program whereby it may purchase materials and equipment included in any Subcontractor's bid for a portion of the Work directly from the supplier of such materials or equipment in order to achieve sales tax savings. Such materials and equipment are referred to as "Direct Purchase Materials." If Owner elects to implement a direct purchase program, it shall so notify Construction Manager in writing, and the terms of this paragraph shall govern, along with Owner's policies on the subject in effect at the time Construction Manager commences construction of the Project. Construction Manager shall obtain Builder's Risk insurance on the Direct Purchase Materials naming Owner as the insured or an additional insured, provided Owner shall reimburse Construction Manager for the cost of such insurance as provided by this Agreement. Construction Manager shall be responsible for safeguarding all Direct Purchase Materials on the Project site on Owner's behalf.

3.6.4 Reporting. The Construction Manager shall provide weekly and/or periodic (but no less frequently than monthly) updates to all relevant documents that track and report construction progress including, but not limited to, Critical Path Method schedules; bidding and bid buyout status; digital photos of Project progress; logs tracking the status of Requests for Information, submittals and shop drawings, discrepancies or deficiencies revealed through testing or inspections, and change order proposals; meeting minutes; and, if applicable, 3rd-party sustainable building certification program status and documentation efforts.

3.6.5 Energy Rebate Program. Construction Manager shall gather product data and other information as needed to assist Owner with its application for energy rebates based on the materials and products installed in the facility.

ARTICLE 4. COMPENSATION OF CONSTRUCTION MANAGER

4.1 Payment for Pre-Construction Services. If Owner requires Pre-Construction Services, the Owner agrees to pay the Construction Manager, and the Construction Manager shall accept as complete payment for performance of Pre-Construction Services, the fee set forth on Exhibit E, payable pursuant to the schedule set forth thereon.

4.2 Payment for Construction Services.

4.2.1 The Owner shall pay, and the Construction Manager shall accept, as full and complete payment for the Construction Services, only the sum of the following items, which sum shall not exceed the GMP:

- (i) the aggregate net cost directly paid by the Construction Manager to subcontractors pursuant to written subcontracts to perform the Work (CSI Divisions 2-33) (the "Cost of the Work"), not to exceed the guaranteed maximum set forth on Exhibit D;
- (ii) the compensation for the Construction Manager's provision of management services (the "Construction Manager's Staffing Costs"), not to exceed the guaranteed maximum set forth on Exhibit D;
- (iii) the aggregate net cost of the Construction Manager's General Conditions (the "General Conditions Cost"), not to exceed the guaranteed maximum set forth on Exhibit D; and
- (iv) Construction Manager's Overhead and Profit, not to exceed the guaranteed maximum set forth on Exhibit D.

4.2.2 Staffing Costs. Construction Manager's Staffing Costs include and are limited to actual expenditures or negotiated amounts for the following items as authorized in the GMP Proposal approved by Owner:

- (i) The cost of its supervisory, management, technical, administrative and clerical personnel engaged in supervision and management of the Work on the Project Site;
- (ii) direct costs incurred in the Work with the exception of those specifically enumerated compensable as a General Conditions Cost or a Cost of the Work;
- (iii) expenses for transportation, meals, and lodging of principals and employees, when traveling in connection with services and duties specifically related to this Project and when authorized in writing by the Owner. Rates for transportation and meals are as set forth in §112.061,

Florida Statutes, on the effective date of this Agreement. Rates for lodging are as set forth by the General Services Administration (GSA) on the effective date of this Agreement. See Exhibit E;

- (iv) expenses incurred for relocation and temporary living allowances of personnel required for the Work, if required by the Project; (Note: Not applicable for minor projects.)
- (v) any costs or expenses incurred by the Construction Manager, not included in the General Conditions Cost, for provision of management services necessary to complete the Project in an expeditious and economical manner consistent with the Contract for Construction and the best interests of Owner.

4.2.3 General Conditions Costs. General Conditions costs include and are limited to actual expenditures or negotiated amounts for the following items as authorized in the GMP Proposal approved by Owner:

- (i) costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers, that are provided by the Construction Manager at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Construction Manager. Cost for items previously used by the Construction Manager shall mean fair market value;
- (ii) costs incurred to provide site safety;
- (iii) costs of removal of debris from the site;
- (iv) costs of document reproduction including bid sets, long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office;
- (v) that portion of insurance and bond premiums directly attributable to this Contract for Construction. Premiums shall be net of trade discounts, volume discounts, dividends and other adjustments;
- (vi) sales, use, or similar taxes imposed by a governmental authority and paid by the Construction Manager, and directly related to the Work;
- (vii) fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract for Construction to pay, including deposits lost for causes other than Construction Manager's fault;
- (viii) data processing costs directly related to the Work and as approved by Owner, in writing;
- (ix) the cost of obtaining and using all utility services required for the Work;
- (x) the cost of crossing or protecting any public utility, if required, and as directed by the Owner;
- (xi) all reasonable costs and expenditures necessary for the operation of the Site office, such as stationary, supplies, furniture, fixtures, office equipment and field computer services provided that quantity and rates are subject to Owner's prior written approval;
- (xii) the cost of secure off-site storage space or facilities approved in advance by Owner;
- (xiii) printing and reproduction of the Construction Documents;
- (xiv) Cost for workers identification at jobsite.
- (xv) rental charges for temporary facilities, and for machinery, equipment, and tools not customarily owned by construction workers; however any rental charge shall not exceed the purchase price of such facilities, machinery, equipment or tools;
- (xvi) cost of surveys, material testing, measurements and layout work reasonably required for the execution of the Work or by the Construction Documents; and
- (xvii) other expenses or charges properly incurred and paid in the prosecution of the Work, with the prior written approval of the Owner, but specifically excluding legal costs and expenses,

including, without limitation, attorneys' fees and court costs associated with the Project.

4.2.4 Construction Manager's Overhead and Profit. The Construction Manager's Overhead and Profit is a fixed percentage of the (i) Guaranteed Maximum Cost of the Work, (ii) Construction Manager's Contingency, (iii) Guaranteed Maximum Construction Manager Staffing Costs, and (iv) Guaranteed Maximum General Conditions Cost (excluding bond and insurance costs), as agreed upon in Exhibit E. Overhead and Profit covers the costs of all of Construction Manager's overhead and expenses related to the Work, including home or branch office employees or consultants not at the Project Site (except those staffing costs paid pursuant to Section 4.2.2(ii)) and general operating expenses of the Construction Manager's principal and branch offices related to the Work (non-field offices), such as telephone service and long-distance and zone telephone charges, postage, office supplies, expressage, and other similar expenses.

4.2.5 Construction Manager's Contingency.

4.2.5.1 The Construction Manager's Contingency, established in the GMP, may be utilized, with the Owner's concurrence, for the following reasons:

- (i) Errors and omissions in the Construction Manager's bidding and scoping processes;
- (ii) reasonable schedule recovery;
- (iii) means, methods, and materials reasonably inferred from the Construction Documents;
- (iv) subcontractor non-performance or default;
- (v) Work not included in the Construction Documents which is necessary to cause the Project to conform to applicable building codes but was not identified as missing during the review of Construction Documents (through no fault of the Construction Manager), but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Project;
- (vi) other costs incurred by the Construction Manager that are not Cost of the Work, General Conditions Cost or Construction Manager Staffing Costs, but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Project; and
- (vii) costs and expenses incurred by the Construction Manager, not included in the General Conditions Cost, for provision of management services necessary to complete the Project in an expeditious and economical manner consistent with this Agreement and the best interests of Owner, but expressly excluding any legal costs and expenses, including, without limitation, attorneys' fees and costs, associated with the Project.

4.2.5.2 If upon completion of 75% of the Work, the remaining amount of contingency exceeds one-half of the amount of the initial post-buyout contingency, such excess shall be transferred via change order to the Owner.

4.2.6 Buyout Savings.

- (i) If Construction Manager receives bids for portions of the Work which are less than the amounts budgeted in the GMP proposal approved by Owner for such portions of the Work, such buyout savings shall first be utilized to offset shortfalls on other bid packages.
- (ii) If, after offsetting any shortfalls, buyout savings remain, at the time provided on Exhibit D for the award of subcontracts, all buyout savings shall be returned to the Owner via "no cost" change order.

4.2.7 Use of Buyout Savings/Sales Tax Savings. The net amount of buyout savings and savings from Owner's purchase of Direct Purchase Materials may be utilized by the Owner for the following or other reasons:

- (i) Customer or designer-requested changes;
- (ii) additive bid alternates and deductive credits;
- (iii) design errors or omissions in the Construction Documents which were not detected by the Construction Manager through no fault of Construction Manager, including Work necessary to cause the Project to conform to applicable building codes;
- (iv) differing/unforeseen existing conditions, as permitted in the General Terms and Conditions.

4.2.8 Compensation for Change Orders. Amounts owed by the Owner to the Construction Manager shall be adjusted by duly authorized change order in accordance herewith and the General Terms and Conditions.

4.2.8.1 Increase In Cost of Work. If the Cost of the Work is increased by change order, the Owner shall pay the Construction Manager the aggregate net cost directly paid by the Construction Manager to subcontractors or suppliers for the performance of the Work and the Construction Manager shall receive Overhead and Profit on such amount, as a percentage as set forth in **Exhibit E**, and an amount for any increased bond and insurance costs associated therewith.

4.2.8.2 Decrease in Cost of Work. If the Cost of the Work is decreased by change order, payment due from the Owner to the Construction Manager shall be reduced by the amount the Construction Manager is no longer obligated to pay subcontractors or suppliers for performance of the Work and the Construction Manager shall credit Overhead and Profit on such amount, as a percentage as set forth in **Exhibit E**, and an amount for any decreased bond and insurance costs associated therewith. Decreases in the Cost of the Work shall inure to the benefit of the Owner and shall not become part of the Construction Manager's Contingency.

4.2.8.3 Change Order Disputed. If the Construction Manager disputes a change order decision pursuant to the General Terms and Conditions, it must give the Owner its written notice of dispute, including the reasons therefore, within seven (7) calendar days of the disputed decision.

4.2.8.3 For all work done by Construction Manager's subcontractors, the respective subcontractors may add a maximum of 10% of their actual costs for combined overhead and profit and the Construction Manager may add, if applicable, the appropriate overhead and profit agreed upon with the GMP.

4.2.9 Applications for Payment for the Work. Applications for payment shall be submitted in detail sufficient for an audit thereof in accordance with Owner's policies on the subject in effect at the time Construction Manager commences construction. Within thirty (30) days of receipt of the Construction Manager's corrected application for payment, properly prepared pursuant to Owner's policies on the subject, the Owner shall pay the Construction Manager the amount approved by Professional, less retainage, unless there is a dispute about the amount of compensation due to the Construction Manager.

4.3 Labor Burden. For purposes of calculating amounts due to Construction Manager under this Agreement for staffing, the parties agree that Construction Manager's labor burden for each employee staffing the Project shall be the labor burden approved by the Owner in accordance with Owner's policies and Project Management Guides. For purposes hereof, labor burden means the actual cost of benefits and taxes that Construction Manager must pay or chooses to pay its employees and shall not include any profit, markup or expense unrelated to employee compensation. With respect to benefits Construction Manager chooses to pay, such benefits must be authorized by Owner under Owner's policy pertaining to labor burden in order to receive reimbursement from Owner.

4.4 Vendor Ombudsman. A Vendor Ombudsman has been established within the Owner's Office of Business

Affairs. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from the Owner. The Vendor Ombudsman may be contacted at 352-392-1241.

ARTICLE 5. LIQUIDATED DAMAGES FOR DELAY

5.1 Inasmuch as failure to Substantially Complete the Work within the time fixed in **Exhibit D** will result in injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, it is agreed that if the Work is not Substantially Completed within the time provided in **Exhibit D**, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract for Construction, the Construction Manager shall pay to the Owner as liquidated damages for such delay, and not as a penalty, the amount set forth in **Exhibit E** for each calendar day elapsing between the date fixed for Substantial Completion and the date such Substantial Completion is fully accomplished. The parties agree that said liquidated damages are reasonable given existing circumstances, including, without limitation, the range of harm that is foreseeable and the anticipation that proof of damages would be costly and impractical.

5.2 The liquidated damages shall be payable in addition to any excess expenses or costs payable by the Construction manager to the Owner under the General Terms and Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract for Construction, except claims related to Construction Manager's delays in Substantial Completion. Owner's right to receive liquidated damages shall in no manner affect the Owner's right to terminate the Contract for Construction, as provided in the General Terms and Conditions or elsewhere in the Contract for Construction. The Owner's exercise of the right to terminate shall not release the Construction Manager from the obligation to pay said liquidated damages.

5.3 When the Owner reasonably believes (i) that Substantial Completion will be inexcusably delayed; or (ii) that the Construction Manager will fail to achieve Final Completion by the date of Final Completion, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Construction Manager the daily amount specified for liquidated damages in this Article for each calendar day of the unexcused delay. If and when the Construction Manager overcomes the delay in timely achieving Substantial Completion or Final Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

ARTICLE 6. INSURANCE AND BONDS

6.1 The Construction Manager shall carry the insurance and obtain the payment and performance bonds described in the General Terms and Conditions.

ARTICLE 7. AUDIT RIGHTS

7.1 Owner may, upon reasonable notice, audit the records of the Construction Manager and its subcontractors and suppliers during regular business hours, during the term of this Agreement and for a period of three (3) years after final payment is made by Owner to Construction Manager under this Agreement or longer, if required by law. Such audits may be performed by an Owner's representative or an outside representative engaged by Owner.

7.2 For purposes hereof, Construction Manager's "records" means any and all information, materials and data of every kind and character, whether hard copy or in electronic form, which may, in Owner's judgment have any bearing on or pertain to this Contract for Construction, including, without limitation, books, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, payroll records, cancelled payroll checks, subcontract files (e.g., including proposals of successful and unsuccessful bidders, bid recap), original estimates, estimating work sheets, correspondence, change order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, invoices and related payment documentation, general ledgers, records detailing cash and trade discounts earned, insurance rebates and dividends, superintendent reports, drawings, receipts, vouchers and memoranda.

7.3 Owner's authorized representative shall have reasonable access to the Construction Manager's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the Contract for Construction,

shall be provided adequate and appropriate work space at Construction Manager's facilities, may count employees at the Site, may be present for the distribution of payroll and shall have such other rights of access as may be reasonably necessary to carry out an audit.

7.4 If an audit discloses overpricing or overcharges, Construction Manager shall refund the overpayment. If an audit discloses overpricing or overcharges of one percent (1%) of the total amount paid hereunder, but in any event more than \$200,000, whichever is less, in addition to making adjustments for the overcharges, the reasonable actual cost of the Owner's audit shall be reimbursed to the Owner by the Construction Manager. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Construction Manager's invoices and/or records shall be made within ninety (90) calendar days from presentation of Owner's findings to Construction Manager.

7.5 Construction Manager shall ensure notice of Owner's audit rights is provided to its subcontractors, suppliers and any other vendor providing services or materials for the Project and shall ensure that each agreement it enters into pursuant hereto includes the provisions of this Article 7.

ARTICLE 8. PERIOD OF SERVICE

8.1 Unless sooner terminated, this Agreement shall remain in force for the period which may reasonably be required for the design, award of contracts, and construction of each project initiated on or before June 30, 2018, including extra work and any required extension thereto, and the post-occupancy phase contemplated by Section 3.3.5. This Agreement may be renewed at the Owner's option for two (2) additional one (1) year periods, based upon satisfactory performance of the Construction Manager as determined by Owner in its sole and absolute discretion. To renew this Agreement, Owner shall so notify Construction Manager at least thirty (30) days prior to the date the original term or renewal term expires, as applicable.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 The Owner and Construction Manager respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Construction Manager shall assign this Agreement without the written consent of the other.

9.2 The Contract for Construction shall be governed by, and construed under, the laws of the State of Florida, without regard to its choice of law provisions and venue shall lie in the courts in Alachua County, Florida.

9.3 The Construction Manager represents and warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Construction Manager) to solicit or secure 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 the Construction Manager) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

9.4 Any books, documents, records, correspondence or other information kept or obtained by the Owner or furnished by Construction Manager to Owner in connection with the services contemplated herein are property of Owner. Construction Manager acknowledges and agrees that any and all such books, documents, records, correspondence or other information may be public records under Chapter 119, *Florida Statutes*. Construction Manager agrees to promptly comply with any order of a Court having competent jurisdiction which determines that records maintained by Construction Manager are "public records" which must be available to the public. Construction Manager acknowledges and agrees that any and all such books, documents, records, correspondence or other information may also be subject to inspection and copying by members of the public pursuant to Chapter 119, *Florida Statutes*. This Agreement may be unilaterally canceled by the Owner for refusal by the Construction Manager to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Construction Manager in conjunction herewith.

9.5 Owner's performance and obligation to pay hereunder is contingent upon an annual appropriation by the Legislature.

9.6 The Construction Manager warrants that it is not on the convicted vendor list for a public entity crime committed within the past thirty six (36) months. The Construction Manager further warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant for an amount in excess of \$15,000.00 in connection with this Project if the supplier, subcontractor or consultant has been placed on the convicted vendor list within the past thirty six (36) months.

9.7 All capitalized terms used herein but not defined herein shall have the meaning ascribed thereto in the General Terms and Conditions.

9.8 Owner is an equal opportunity institution and, as such, encourages the use of small businesses, including women and minority-owned small businesses in the provision of construction related services. Small businesses should have a fair and equal opportunity to compete for dollars spent by the University of Florida to procure construction-related services. Competition ensures that prices are competitive and a broad vendor base is available. Construction Manager shall use good faith efforts to ensure opportunities are available to small businesses including women and minority-owned businesses on the Project.

9.9 BIM 360 policies and Procedures and Building information modeling (BIM) models will be made available to the Construction Manager as described in **Exhibit A**.

9.10 Construction Manager is an independent contractor to Owner.

9.11 All exhibits referenced herein are attached hereto and incorporated herein by reference.

9.12 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Construction Manager. Notwithstanding the foregoing, the Owner shall be an intended third party beneficiary of the Construction Manager's contracts with its consultants and/or sub-contractors, if any.

9.13 To the maximum extent permitted by law, Construction Manager hereby agrees to indemnify and hold Owner and its officers and employees harmless for, from and against all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by (i) the negligence, recklessness, or intentionally wrongful conduct of the Professional and other persons employed or utilized by the Construction Manager, including its consultants, in the performance of the Agreement; or (ii) Construction Manager's breach of any covenant, term, or provision of this Agreement.

9.14 Construction Manager acknowledges and agrees that nothing contained herein shall be construed or interpreted as (i) denying to Owner any remedy or defense available to it under the laws of the State of Florida; (ii) the consent of the Owner or the State of Florida or their agents and agencies to be sued; or (iii) a waiver of sovereign immunity of the Owner or of the State of Florida beyond the limited waiver provided in section 768.28, Florida Statutes.

9.15 Any modifications to this Agreement or the Contract for Construction are set forth on **Exhibit F**.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have affixed their signatures, effective as of the date first written above.

FOR THE **CONSTRUCTION MANAGER:**

ATTEST:

NAME OF FIRM

BY:

BY:

NAME:

NAME:

TITLE:

TITLE:

DATE:

DATE:

FOR THE **OWNER:**

THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES

BY:

NAME:

TITLE: VICE PRESIDENT FOR CONSTRUCTION,
FACILITIES, AND REAL ESTATE
UNIVERSITY OF FLORIDA

DATE:

REVIEWED

APPROVED

BY:

BY:

NAME:

NAME:

TITLE: OFFICE OF THE VICE PRESIDENT AND GENERAL
COUNSEL
UNIVERSITY OF FLORIDA

TITLE: ASSISTANT VICE-PRESIDENT, PLANNING, DESIGN
& CONSTRUCTION
UNIVERSITY OF FLORIDA

DATE:

DATE:

EXHIBIT A

INDIVIDUAL PROJECT DESCRIPTION AND APPLICABLE DOCUMENTS AND GUIDELINES

Description of Project

UF Project No: _____
 UF Project Name: _____
 Location/Address: _____
 Description/Scope: Approved Facilities Program dated MM YYYY (or briefly describe scope of work)

1.6/3.3 Documents, Conditions, and Guidelines

1. Owner's policies and project management guides listed under 'Forms & Standards' at www.facilities.ufl.edu
2. _____
3. _____
4. _____
5. _____
6. _____

9.9 Building Information Modeling (BIM)

The Professional shall develop the design at each stage using Building Information Modeling (BIM) software and related technologies –specifically, the 2020 or current versions of Autodesk "Revit Architecture" for architectural, Autodesk "Revit Structure" for structural content, and Autodesk "Revit MEP" for mechanical, electrical, and plumbing drawings. These models shall be used by the Professional for design coordination, collision avoidance, and production of traditional two-dimensional drawings, and may be used for energy analysis, day lighting analysis, and other building or systems analysis. The implementation and use of BIM shall be discussed by the Professional, Owner, and Construction Manager at a BIM kickoff meeting as early in design as possible, with the agreed-upon parameters captured by the Professional in a project-specific BIM Execution Plan using Owner's template. The BIM Execution Plan shall be updated and augmented by the Professional, with concurrence and agreement by the Owner and Construction Manager, throughout design and construction as needed to solidify details regarding terminology, schedule, content, format, risk allocation, and use of the model(s). Professional shall provide the BIM model(s) to the Construction Manager throughout design and construction subject to the limitations outlined in the BIM Execution Plan for scheduling, coordination, resource management, estimating, and other uses deemed beneficial to the Owner for delivery of the Project. Professional shall update the BIM model(s) at the end of construction to reflect the actual, "as-built" conditions per requirements as specified in the BIM Execution Plan. Final as-built model(s) shall be delivered to the Owner in the BIM format(s) as originally developed as linked Revit-based models containing the architectural, structural, and M/E/P content including sheet(s) elements reflecting content and format as depicted in the record drawings.

9.9 BIM 360 Policies and Procedures

BIM 360 Docs is currently being used for electronic Design Review and the Building Permit Process. Additional BIM 360 Docs features, and other BIM 360 modules, will be implemented over time. Detailed operational policies and procedures will be maintained in a BIM 360 Instruction Manual available at the Owner's ufl.edu website. Projects will be automatically generated in BIM 360 from the UF Project Tracker system by the UF Project Manager, who will add team members requiring access to BIM 360. The information needed to start the Building Permit Application process will be electronically transmitted by UF Project Tracker System to the EH&S Building Department.

EXHIBIT B
CONSTRUCTION MANAGER'S PERSONNEL

1.2 Project Team

Deviation from, or revisions to, this list must be pre-approved in writing by the Owner's Project Manager. Construction Manager's employee's rates will be subject to Article 4.3 of the Agreement.

[Insert Construction Manager's Personnel Chart for duration of contract]

EXHIBIT C

PROJECT DESIGN AND CONSTRUCTION SCHEDULE

1.2/3.4 Project Design and Construction Schedule

PHASE	START DATE	END DATE
Pre-Design Phase	00 00 0000	00 00 0000
Pre-Design Program Development	00 00 0000	00 00 0000
Pre-Design Budget & Program Verification	00 00 0000	00 00 0000
Concept Schematic Design (CSD)	00 00 0000	00 00 0000
CSD Construction Cost Estimate	00 00 0000	00 00 0000
Advanced Schematic Design (ASD)	00 00 0000	00 00 0000
ASD Construction Cost Estimate Report	00 00 0000	00 00 0000
Design Development (DD)	00 00 0000	00 00 0000
DD Construction Cost Estimate Report	00 00 0000	00 00 0000
60% Construction Documents (CDs)	00 00 0000	00 00 0000
60% CDs Construction Cost Estimate Report	00 00 0000	00 00 0000
Early bid packages (Site Utilities/Foundation)	00 00 0000	00 00 0000
Early bid packages ()	00 00 0000	00 00 0000
Early bid packages ()	00 00 0000	00 00 0000
100% Construction Documents (CDs)	00 00 0000	00 00 0000
Guaranteed Maximum Price (GMP) Proposal	00 00 0000	00 00 0000
Conformed Bid Documents	00 00 0000	00 00 0000
Notice to Proceed/Purchase Order	00 00 0000	00 00 0000
Perform Construction	00 00 0000	00 00 0000
Substantial Completion	00 00 0000	00 00 0000
Final Completion	00 00 0000	00 00 0000

EXHIBIT D

SAMPLE NOTICE TO PROCEED

NOTE: This form is for use on projects with a construction cost less than \$1,000,000 (delete this note)

Pursuant to the Agreement between the University of Florida Board of Trustees ("Owner") and Name of Construction Manager ("Construction Manager"), for the construction of Project #, name of project, the Owner and the Construction Manager hereby execute this **NOTICE TO PROCEED**, effective insert date or "Immediately" and further agree as set forth below.

1. Construction Manager shall commence the Work within ten (10) calendar days after the date indicated above or the date of receipt of a Purchase Order and this Notice, accompanied by completed **Exhibits A, B, E, and F**, whichever is received later.
2. The date of Substantial Completion for the Project shall be: **Month Date, Year**. The date of Final Completion for the Project shall be **forty-five (45)** days after the date of Substantial Completion.
3. The Construction Manager's Guaranteed Maximum Price ("GMP") proposal dated **Month date, Year** is accepted by the Owner.
4. In accordance with Section 3.6.1.8 of the Agreement for Construction Management Services, the Construction Manager shall award Trade Contracts representing ninety percent (90%) or more of the Cost of the Work within **ninety (90)** days of issuance of the Notice to Proceed for Construction Services.

Item	Amount
Guar. Max. Cost of the Work	\$
CM Contingency	\$
Guar. Max. Construction Manager Staffing Costs	\$
Guar. Max. General Conditions Cost	\$
SUB-TOTAL	\$ Note: This is a total value of lines 1-4 above (delete this note)
Overhead & Profit -	\$ Note: This line is the % approved in GMP x Subtotal above (delete this note)
Bonds & Insurance & Permit (note: this is part of the General Conditions)	\$
Guaranteed Maximum Price	\$ Note: This line totals lines 5-7 (delete this note)

FOR THE OWNER:

(INSERT LEGAL NAME OF THE CONSTRUCTION MANAGER)

BY:

BY: NAME, TITLE

DATE:

DATE:

SAMPLE CONSTRUCTION MANAGER NOTICE TO PROCEED

NOTE: This form is for use on projects with a construction cost greater than \$1,000,000 (delete this note)

Pursuant to the Agreement between the University of Florida Board of Trustees ("Owner") and Name of Construction Manager ("Construction Manager"), for the construction of Project #, name of project, the Owner and the Construction Manager hereby execute this **NOTICE TO PROCEED**, effective insert date or "Immediately" and further agree as set forth below.

5. Construction Manager shall commence the Work within ten (10) calendar days after the date indicated above or the date of receipt of a Purchase Order and this Notice, accompanied by completed **Exhibits A, B, E, and F**, whichever is received later.
6. The date of Substantial Completion for the Project shall be: **Month Date, Year**. The date of Final Completion for the Project shall be **forty-five (45)** days after the date of Substantial Completion.
7. The Construction Manager's Guaranteed Maximum Price ("GMP") proposal dated **Month date, Year** is accepted by the Owner.
8. In accordance with Section 3.6.1.8 of the Agreement for Construction Management Services, the Construction Manager shall award Trade Contracts representing ninety percent (90%) or more of the Cost of the Work within **ninety (90)** days of issuance of the Notice to Proceed for Construction Services.

Item	Amount
Guar. Max. Cost of the Work	\$
CM Contingency	\$ Note: This line is 3% of Guaranteed Max Cost of Work (delete this note)
Guar. Max. Construction Manager Staffing Costs	\$
Guar. Max. General Conditions Cost	\$
SUB-TOTAL	\$ Note: This is a total value of lines 1-4 above (delete this note)
Overhead & Profit	\$ Note: This line is the % approved in GMP x Sub-total above (delete this note)
Bonds & Insurance & Permit (note: this is part of the General Conditions)	\$
Guaranteed Maximum Price	\$ Note: This line totals lines 5-7 (delete this note)

FOR THE OWNER:

(INSERT LEGAL NAME OF THE CONSTRUCTION MANAGER)

BY:

BY: NAME, TITLE

DATE:

DATE:

APPROVED:

BY:

DATE:

EXHIBIT E

PROJECT SPECIFIC REQUIREMENTS AND PRE-CONSTRUCTION SERVICES FEE

- 3.3.4 **Third Party Sustainability Certification.** The Certification level is established at **GOLD** level.
- 3.3.6 **Initial Construction Schedule Deadline**
☐ With Advanced Schematic Design submittal or
☐ With GMP submittal
- 3.4.3 **Construction Manager's Contingency** shall be no greater, as a percentage of the estimated Cost of the Work, than the following at each of the following phases:
~~ten~~ percent (**10 %**) at Conceptual Schematic Design
~~eight~~ percent (**8 %**) at Advanced Schematic Design
~~six~~ percent (**6 %**) at Design Development
~~five~~ percent (**5 %**) at (**60 %**) Construction Documents
~~three~~ percent (**3 %**) at the time the GMP proposal is submitted
~~two~~ percent (**2%**) at the time that Construction Manager has bought out Trade Contracts representing ninety percent (90%) of the Cost of Work or more.
- 3.4.5 **Jobsite Management and Logistics Plan**
☐ with **Design Development** phase submittal or
☐ no later than **month dd, vvy**
- 3.4.8 **Phased or "Fast-Track" Construction**
describe or state "none"
- 3.5.1 **GMP Proposal Submittal Deadline**
☐ upon completion of ~~sixty~~ percent (**60 %**) of the Construction Documents.
☐ ~~thirty~~ (**30**) days after completion of the Construction Documents.
☐ no later than **Month , 0000.**
☐ **Describe or delete this line**
- 4.1 **Pre-Construction Services Fee (Per Guideline Fee Schedule)**
- | PHASE | FEE |
|--------------------------------|-----|
| 60% Construction Documents; or | \$ |
| 100% Construction Documents | \$ |
| Total: | \$ |
- 4.2 **Overhead & Profit.** The Construction Manager's Overhead & Profit percentage shall not exceed the percentage outlined in the Guideline Fee Schedule and same percentage for any Change Orders. Trade subcontractors may add up to 10% of their actual cost of work as their combined overhead and profit for change orders.
- 4.2.2 **Mileage Rate.** The mileage rate for authorized travel – based on State of Florida rates on the Effective Date of this Agreement – is **\$0.445 per mile**. Reference F.S. 112.061.
Lodging Rate. The maximum reimbursable rate for lodging in **Gainesville, Florida** – based on General Services Administration (GSA) rates on the Effective Date of this Agreement – is **\$102.00 per night**, plus applicable taxes. Reference www.gsa.gov/perdiem.
Meals. The maximum reimbursable rates for meals (only paid when overnight travel is involved) – based on State of Florida rates on the Effective Date of this Agreement (reference F.S. 112.061) – are:
\$6.00 for breakfast, \$11.00 for lunch, \$19.00 for dinner = \$36.00 TOTAL
- 5.1 **Liquidated Damages:** **\$x,xxx** per day (calculated in accordance with Owner's Project Management Guides).

EXHIBIT F

PROJECT-SPECIFIC MODIFICATIONS

9.15 Modifications to the Contract for Construction

1. The General Terms & Conditions, part 4.10, stipulate that the Builder shall be responsible for all costs associated with connections to, and consumption of, utilities required for temporary service and construction. For this minor project, **the Owner shall pay for consumption of utilities or the Owner shall pay for consumption of utilities with the exception of telecomm/data/telephone service.**
2. The General Terms & Conditions, part 12.1.9, require the delivery of operation and maintenance documents not less than forty-five (45) calendar days prior to the required date of Substantial Completion to allow adequate time for review, correction, and training of the Owner's personnel prior to Commissioning and the Owner's occupancy. For this project, such documents shall be provided **(insert modified timeframe)**.
3. The Construction Manager shall complete all project closeouts in accordance with Owner's policies and Project Management Guides in effect when the Construction Manager commences construction.
4. 4.2.8.2 Decrease in Cost of the Work. If the Cost of the Work is decreased by change order, payment due from the Owner to the Construction Manager shall be reduced by both (i) the amount the Construction Manager is no longer obligated to pay subcontractors or suppliers for performance of the Work and (ii) the amount of Overhead and Profit that the Construction Manager would have received without the change order. Decreases in the Cost of the Work and related Overhead and Profit shall inure to the benefit of the Owner and shall not become part of the Construction Manager's Contingency.
5. Subject to rules promulgated by the Department of Management Services from time to time, unless otherwise determined by Owner in its sole discretion pursuant to Section 255.0993(b), and except as otherwise permitted under clauses (c) and (d) of Section 255.0993, Florida Statutes, Construction Manager shall, and shall cause its subcontractors to, only permanently incorporate into the Project iron or steel products (as defined in Section 255.0993(1), Florida Statutes) that are produced in the United States (as defined in Section 255.0993(1), Florida Statutes).
6. Owner desires to establish a contingency fund to cover excess costs that may arise during the Project from time to time. Accordingly:
 - a. Section 2.2 of the Agreement is hereby amended by inserting the following at the end of such Section 2.2: Owner, in its sole discretion, may establish a contingency fund to pay costs associated with Change Orders or other additional expenses that may arise during the Project from time to time ("Owner's Contingency Fund"). Owner's Contingency Fund will exist for the sole benefit of Owner and will not be included in any calculation of any compensation to be paid to Construction Manager. Owner may remove all or part of Owner's Contingency Fund from the Project at any time in its sole discretion without notice to Construction Manager.
 - b. As of the date of this Authorization, Owner's Contingency Fund has been funded with **\$###,###**.
7. The Agreement for the Annual Continuing Construction Management Services is hereby amended to provide for fixed, lump sum compensation of **\$###,###** for the Construction Manager's Staffing Cost and of **\$###,###** for the General Conditions Cost, including the allowable vehicle costs (vehicle, maintenance/fuel, etc.) of the Superintendent. The lump sum compensation will not be increased for any reason except by a change order duly executed by Owner and Construction Manager. Subject to Construction Manager's diligent performance under the Agreement, the lump sum compensation will be paid to Construction Manager in equal monthly installments during construction of the Project. In accordance with this Exhibit:
 - a. Section 4.2.1 of the Agreement is deleted in its entirety and restated as follows:

4.2.1 Owner shall pay, and Construction Manager shall accept, as full and complete payment for the Construction Services, only the sum of the following items, which sum shall not exceed

the GMP:

- (i) the aggregate net cost directly paid by Construction Manager to subcontractors pursuant to written subcontracts to perform the Work (CSI Divisions 2-17) (the “Cost of the Work”), not to exceed the guaranteed maximum set forth in the Notice to Proceed issued by Owner pursuant to Section 3.5.6 of this Agreement;
- (ii) the amount of \$###,### as compensation for Construction Manager’s provision of management services (the “Construction Manager’s Staffing Costs”), as set forth in the Notice to Proceed issued by Owner pursuant to Section 3.5.6 of this Agreement, and which will not be increased as a result of any labor burden calculation under Section 4.3 of this Agreement;
- (iii) the amount of \$###,### as compensation for Construction Manager’s General Conditions, including bonds and insurances costs (collectively, the “General Conditions Cost”), as set forth in the Notice to Proceed issued by Owner pursuant to Section 3.5.6 of this Agreement; and
- (iv) Construction Manager’s Overhead and Profit, not to exceed the guaranteed maximum set forth in the Notice to Proceed issued by Owner pursuant to Section 3.5.6 of this Agreement.

- b. Section 4.2.2 of the Agreement is modified by deleting the introductory clause in its entirety and restating such clause as follows:

4.2.2 Staffing Costs. The lump sum compensation for Construction Manager’s Staffing Costs set forth in Section 4.2.1(ii) above is the only compensation to be paid for all costs related to staffing, including but not limited to the following items:

- c. Section 4.2.2(iv) of the Agreement is modified by deleting the phrase “and when authorized in writing by the Owner.”
- d. Section 4.2.3 of the Agreement is modified by deleting the introductory clause in its entirety and restating such clause as follows:

4.2.3 General Conditions Costs. The lump sum compensation for General Conditions Costs set forth in Section 4.2.1(iii) above is the only compensation to be paid for all costs related to Construction Manager’s General Conditions, including but not limited to the following items:

- e. Section 4.2.3(viii) of the Agreement is modified by deleting the phrase “and as approved by Owner, in writing.”
- f. Section 4.2.3(xi) of the Agreement is modified by deleting the phrase “provided that quantity and rates are subject to Owner’s prior written approval.”
- g. Section 4.2.3(xii) of the Agreement is modified by deleting the phrase “approved in advance by Owner.”
- h. Section 4.2.3(xvii) of the Agreement is modified by deleting the phrase “with the prior written approval of the Owner.”
- i. A new Section 4.2.5.3 is inserted into the Agreement after Section 4.2.5.2 of the Agreement as follows:

4.2.5.3 Limit on Construction Manager’s Contingency. Notwithstanding anything in this Agreement to the contrary, the Construction Manager’s Contingency may not be utilized to increase the lump sum compensation for the Construction Manager’s Staffing Costs or for the General Conditions Cost, each as set forth in Section 4.2.1 of this Agreement, unless approved by a change order duly executed by Owner and Construction Manager.

- j. The following additional sentences are added to the end of Section 4.2.9 of the Agreement:

When properly requested in an application for payment, the lump sum compensation for the Construction Manager's Staffing Costs and for the General Conditions Cost, each as set forth in Section 4.2.1 of this Agreement, will be paid to Construction Manager in equal monthly installments through Final Completion (or until paid in full, if sooner). Each application for payment that requests payment of an installment of the Construction Manager's Staffing Costs must include a certification of all field employees' hours during the period to which the application for payment relates.

Conflict. In the event of a conflict between the terms of this Exhibit and the body of the Agreement, the terms of this Exhibit will control.

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