



LOWNDES COUNTY BOARD OF COMMISSIONERS
PROPOSED AGENDA
WORK SESSION, TUESDAY, MAY 28, 2024, 8:30 A.M.
REGULAR SESSION, TUESDAY, MAY 28, 2024, 5:30 P.M.
327 N. Ashley Street - 2nd Floor

1. Call To Order

2. Invocation

3. Pledge Of Allegiance To The Flag

4. Presentations

- a. GFOA Distinguished Budget Presentation Award

Recommended Action:

Documents:

5. Minutes For Approval

- a. Work Session - May 13, 2024 & Regular Session - May 14, 2024

Recommended Action: Approve

Documents:

6. For Consideration

- a. 2024 Local Road Assistance (LRA) Administration Funds Application

Recommended Action: Approve

Documents:

- b. A New Addition to the Lowndes County Jail Guaranteed Maximum Price (GMP)

Recommended Action: Approve

Documents:

- c. RAVE Alert Service Agreement

Recommended Action: Approve

Documents:

- d. Crisis Track Damage Assessment Software

Recommended Action: Approve

Documents:

7. Reports - County Manager

8. Citizens Wishing To Be Heard - Please State Your Name and Address

9. Adjournment

LOWNDES COUNTY BOARD OF COMMISSIONERS
COMMISSION AGENDA ITEM

SUBJECT: GFOA Distinguished Budget Presentation Award

DATE OF MEETING: May 28, 2024

Work
Session/Regular
Session

BUDGET IMPACT:

FUNDING SOURCE:

- Annual
- Capital
- N/A
- SPLOST
- TSPLOST

COUNTY ACTION REQUESTED ON:

HISTORY, FACTS AND ISSUES: The Government Finance Officers Association (GFOA) is pleased to announce that Lowndes County has received GFOA's Distinguished Budget Presentation Award for its Fiscal Year 2024 Budget. The award represents a significant achievement and reflects a commitment to meeting the highest principles of governmental budgeting. In order to receive the award, a government has to satisfy nationally recognized guidelines for effective budget presentation. These guidelines assess how well an entity's budget serves as a policy document, a financial plan, an operations guide and a communications device. Budgets must be rated proficient in all four categories and in fourteen mandatory criteria within those categories to receive the award. There are over 1,700 participants in the award program throughout the United States and Canada. Lowndes County has received this award for eighteen consecutive years.

OPTIONS:

RECOMMENDED ACTION:

DEPARTMENT: Finance

DEPARTMENT HEAD: Stephanie Black

ADMINISTRATIVE COMMENTS AND RECOMMENDATIONS:

LOWNDES COUNTY BOARD OF COMMISSIONERS
COMMISSION AGENDA ITEM

SUBJECT: 2024 Local Road Assistance (LRA) Administration Funds
Application

DATE OF MEETING: May 28, 2024

Work
Session/Regular
Session

BUDGET IMPACT: \$1,656,734.49

FUNDING SOURCE:

- Annual
- Capital
- N/A
- LMIG
- TSPLOST

COUNTY ACTION REQUESTED ON: 2024 LRA Application

HISTORY, FACTS AND ISSUES: The Georgia Department of Transportation announced that the Governor and the Legislature included \$250 million in Local Road Assistance (LRA) funds in the amended fiscal year 2024 budget. The LRA funds will be distributed using the Local Maintenance and Improvement Grant (LMIG) Application System and will require no matching funds. The fiscal year 2024 LRA formula amount for Lowndes County is \$1,656,734.49.

If approved, the LRA funds will be used for the Val Del Road at North Valdosta Road Intersection Improvements and restriping approximately 35 miles of paved roads.

OPTIONS: 1. Approve the Chairman to sign the application.
2. Redirect.

RECOMMENDED ACTION: Approve

DEPARTMENT: Engineering

DEPARTMENT HEAD: Chad McLeod

ADMINISTRATIVE COMMENTS AND RECOMMENDATIONS:

Lowndes County
Board of Commissioners

Bill Slaughter, Chairman



Joyce E. Evans, District 1
Scott Orenstein, District 2
Mark Wisenbaker, District 3
Demarcus Marshall, Ph.D. District 4
Clay Griner, District 5

Post Office Box 1349 • Valdosta, GA 31603-1349 • Phone (229) 671-2400 • Fax (229) 245-5222

May 28, 2024

Mr. Shannon Bradford
Georgia DOT
710 W 2nd Street
Tifton, GA 31794

Re: LMIG 2024 Supplemental

Mr. Bradford,

Attached is the completed Georgia Department of Transportation Local Maintenance & Improvement Grant (LMIG) Application for Fiscal Year 2024 Supplemental Funding. Also attached is the 2024 LMIG Project Report for Lowndes County. If you have any question regarding the 2024 Supplemental Application and Project list, please feel free to contact me.

Respectfully Submitted,

Bill Slaughter
Chairman

Cc: Paige Dukes, Lowndes County Manager
Michael Fletcher, P.E. County Engineer
Chad McLeod, Director of Engineering Services
Walt Deloach, Project Manager

2024 LMIG SUPPLEMENTAL PROJECT REPORT

County/City Lowndes County

| Road Name | Beginning | Ending | Length (Miles) | Description of Work | Project Cost |
|------------------|------------------|---------------|---------------------------|----------------------------|-------------------------|
| Val Del Rd | SR 7 | CR 57 | 0.165 | Widening and turn tanes | \$1,500,000 |
| Various Roads | Varies | Varies | 35 | Restriping | \$175,000 |

**GEORGIA DEPARTMENT OF TRANSPORTATION LOCAL MAINTENANCE & IMPROVEMENT
GRANT (LMIG) APPLICATION FOR FISCAL YEAR 2024
TYPE OR PRINT LEGIBLY. ALL SECTIONS MUST BE COMPLETED.**

LOCAL GOVERNMENT AFFIDAVIT AND CERTIFICATION

I, Bill Slaughter (Name), the Chairman (Title), on behalf of Lowndes County Board of Commissioners (Local Government), who being duly sworn do swear that the information given herein is true to the best of his/her knowledge and belief. Local Government swears and certifies that it has read and understands the LMIG General Guidelines and Rules and that it has complied with and will comply with the same.

Local government further swears and certifies that it has read and understands the regulations for the Georgia Planning Act of 1989 (O.C.G.A. § 45-12-200, et seq.), Service Delivery Strategy Act (O.C.G.A. § 36-70-20, et seq.), and the Local Government Budgets and Audits Act (O.C.G.A. 36-81-7 et seq.) and will comply in full with said provisions. Local government further swears and certifies that the roads or sections of roads described and shown on the local government's Project List are dedicated public roads and are part of the Public Road System in said county/city. Local government further swears and certifies that it complied with federal and/or state environmental protection laws and at the completion of the project(s), it met the match requirements as stated in the Transportation Investment ACT (TIA).

Further, the local government shall be responsible for any claim, damage, loss or expense that is attributable to negligent acts, errors, or omissions related to the designs, drawings, specifications, work and other services furnished by or on behalf of the local government pursuant to this Application ("Loss"). To the extent provided by law, the local government further agrees to hold harmless and indemnify the DEPARTMENT and the State of Georgia from all suits or claims that may arise from said Loss.

If the local government fails to comply with these General Guidelines and Rules, or fails to comply with its Application and Certification, or fails to cooperate with the auditor(s) or fails to maintain and retain sufficient records, the DEPARTMENT may, at its discretion, prohibit the local government from participating in the LMIG program in the future and may pursue any available legal remedy to obtain reimbursement of the LMIG funds. Furthermore, if in the estimation of the DEPARTMENT, a roadway or bridge shows evidence of failure(s) due to poor workmanship, the use of substandard materials, or the failure to follow the required design and construction guidelines as set forth herein, the Department may pursue any available legal remedy to obtain reimbursement of the allocated LMIG funds or prohibit local government from participating in the LMIG program until such time as corrections are made to address the deficiencies or reimbursement is made. All projects identified on the Project list shall be constructed in accordance with the Department's Standard Specifications of Transportation Systems (Current Edition), Supplemental Specifications (Current Edition), and Special Provisions.

Local Government:

_____ (Signature)

Bill Slaughter (Print)

Mayor / Commission Chairperson

May 28, 2024 (Date)

LOCAL GOVERNMENT SEAL:

E-Verify Number

Sworn to and subscribed before me,

This ____ day of _____, 20 ____.

In the presence of:

NOTARY PUBLIC

May 28, 2024

My Commission Expires:

NOTARY PUBLIC SEAL:

| GDOT District | County | City | Total Mileage* | Population** | FY 2022 LMIG Formula Amount | FY 2023 LMIG Formula Amount | FY 2024 LMIG Formula Amount | Required LMIG Match for Previous Grants | FY 2024 LRA Formula Amount | Required FY 2024 LRA Match |
|---------------|---------|------------------|----------------|--------------|-----------------------------|-----------------------------|-----------------------------|---|----------------------------|----------------------------|
| 4 | LANIER | (UNINCORPORATED) | 225.97 | 7,145 | \$ 292,243.41 | \$ 297,794.76 | \$ 319,886.28 | 10% | \$ 396,197.08 | 0% |
| 4 | LANIER | LAKELAND | 23.52 | 2,762 | \$ 45,325.98 | \$ 45,656.61 | \$ 45,617.50 | 10% | \$ 56,495.02 | 0% |
| 2 | LAURENS | (UNINCORPORATED) | 1,160.90 | 28,811 | \$ 1,445,057.63 | \$ 1,472,674.54 | \$ 1,595,180.77 | 10% | \$ 1,975,739.52 | 0% |
| 2 | LAURENS | CADWELL | 5.68 | 380 | \$ 9,743.52 | \$ 9,567.66 | \$ 9,264.19 | 10% | \$ 11,473.74 | 0% |
| 2 | LAURENS | DEXTER | 8.07 | 654 | \$ 12,096.88 | \$ 12,408.72 | \$ 13,858.97 | 10% | \$ 17,164.16 | 0% |
| 2 | LAURENS | DUBLIN | 138.90 | 16,121 | \$ 244,808.83 | \$ 249,417.05 | \$ 268,237.43 | 10% | \$ 332,199.17 | 0% |
| 2 | LAURENS | DUDLEY | 11.56 | 590 | \$ 16,548.85 | \$ 16,366.15 | \$ 17,735.01 | 10% | \$ 21,965.26 | 0% |
| 2 | LAURENS | EAST DUBLIN | 31.12 | 2,479 | \$ 48,122.29 | \$ 49,183.59 | \$ 53,181.27 | 10% | \$ 65,864.42 | 0% |
| 2 | LAURENS | MONTROSE | 5.40 | 199 | \$ 6,772.22 | \$ 7,356.09 | \$ 7,816.82 | 10% | \$ 9,681.51 | 0% |
| 2 | LAURENS | RENTZ | 6.12 | 308 | \$ 8,299.90 | \$ 8,595.16 | \$ 9,362.55 | 10% | \$ 11,595.76 | 0% |
| 4 | LEE | (UNINCORPORATED) | 418.77 | 29,308 | \$ 612,489.86 | \$ 627,424.76 | \$ 690,908.06 | 30% | \$ 855,690.09 | 0% |
| 4 | LEE | LEESBURG | 23.29 | 3,506 | \$ 42,926.47 | \$ 44,084.91 | \$ 49,878.59 | 30% | \$ 61,770.84 | 0% |
| 4 | LEE | SMITHVILLE | 11.12 | 597 | \$ 15,859.03 | \$ 16,299.48 | \$ 17,239.81 | 30% | \$ 21,351.89 | 0% |
| 5 | LIBERTY | (UNINCORPORATED) | 240.90 | 21,768 | \$ 380,137.46 | \$ 386,493.18 | \$ 427,415.90 | 30% | \$ 529,344.86 | 0% |
| 5 | LIBERTY | ALLENHURST | 5.94 | 831 | \$ 10,739.89 | \$ 10,356.62 | \$ 12,335.51 | 30% | \$ 15,276.69 | 0% |
| 5 | LIBERTY | FLEMINGTON | 11.39 | 840 | \$ 15,203.19 | \$ 15,131.86 | \$ 19,053.47 | 30% | \$ 23,597.65 | 0% |
| 5 | LIBERTY | GUM BRANCH | 3.60 | 245 | \$ 5,957.86 | \$ 5,618.01 | \$ 5,897.04 | 30% | \$ 7,303.50 | 0% |
| 5 | LIBERTY | HINESVILLE | 143.52 | 35,420 | \$ 344,383.56 | \$ 351,902.28 | \$ 391,710.35 | 30% | \$ 485,081.70 | 0% |
| 5 | LIBERTY | MIDWAY | 15.92 | 2,190 | \$ 29,498.34 | \$ 29,977.09 | \$ 32,833.77 | 30% | \$ 40,662.45 | 0% |
| 5 | LIBERTY | RICEBORO | 15.07 | 629 | \$ 21,120.56 | \$ 21,604.85 | \$ 22,264.34 | 30% | \$ 27,575.26 | 0% |
| 5 | LIBERTY | WALTHOURVILLE | 21.43 | 3,788 | \$ 46,698.57 | \$ 47,501.78 | \$ 49,326.28 | 30% | \$ 61,085.96 | 0% |
| 2 | LINCOLN | (UNINCORPORATED) | 280.71 | 6,288 | \$ 349,482.37 | \$ 355,811.92 | \$ 381,577.68 | 10% | \$ 472,611.48 | 0% |
| 2 | LINCOLN | LINCOLNTON | 17.87 | 1,461 | \$ 28,568.18 | \$ 28,970.05 | \$ 30,767.08 | 10% | \$ 38,104.62 | 0% |
| 5 | LONG | (UNINCORPORATED) | 280.59 | 15,487 | \$ 433,240.29 | \$ 414,102.35 | \$ 437,592.88 | 30% | \$ 541,967.55 | 0% |
| 5 | LONG | LUDOWICI | 15.29 | 1,665 | \$ 29,640.73 | \$ 30,543.31 | \$ 28,858.31 | 30% | \$ 35,739.82 | 0% |
| 4 | LOWNDES | (UNINCORPORATED) | 809.83 | 56,938 | \$ 1,211,881.49 | \$ 1,235,231.26 | \$ 1,337,694.10 | 10% | \$ 1,656,734.49 | 0% |
| 4 | LOWNDES | DASHER | 4.29 | 894 | \$ 10,203.79 | \$ 10,731.45 | \$ 10,702.90 | 10% | \$ 13,254.33 | 0% |
| 4 | LOWNDES | HAHIRA | 23.31 | 3,406 | \$ 42,779.28 | \$ 43,957.52 | \$ 49,292.52 | 10% | \$ 61,045.20 | 0% |
| 4 | LOWNDES | LAKE PARK | 10.93 | 1,169 | \$ 19,091.60 | \$ 19,380.21 | \$ 20,499.71 | 10% | \$ 25,388.08 | 0% |
| 4 | LOWNDES | REMERTON | 2.31 | 1,302 | \$ 8,337.30 | \$ 8,852.47 | \$ 10,773.14 | 10% | \$ 13,340.21 | 0% |
| 4 | LOWNDES | VALDOSTA | 288.45 | 55,567 | \$ 640,566.11 | \$ 659,061.12 | \$ 691,899.50 | 10% | \$ 856,845.74 | 0% |
| 1 | LUMPKIN | (UNINCORPORATED) | 394.65 | 27,624 | \$ 589,172.22 | \$ 600,382.15 | \$ 651,138.44 | 30% | \$ 806,435.38 | 0% |
| 1 | LUMPKIN | DAHLONEGA | 34.99 | 6,654 | \$ 80,297.36 | \$ 81,321.42 | \$ 83,401.91 | 30% | \$ 103,284.73 | 0% |
| 3 | MACON | (UNINCORPORATED) | 418.07 | 6,471 | \$ 506,430.44 | \$ 516,166.44 | \$ 550,627.36 | 10% | \$ 681,998.88 | 0% |
| 3 | MACON | IDEAL | 6.91 | 397 | \$ 10,286.14 | \$ 10,381.34 | \$ 10,871.74 | 10% | \$ 13,464.84 | 0% |
| 3 | MACON | MARSHALLVILLE | 11.99 | 1,053 | \$ 20,319.23 | \$ 20,699.39 | \$ 21,087.43 | 10% | \$ 26,116.36 | 0% |
| 3 | MACON | MONTUZUMA | 33.46 | 3,076 | \$ 53,487.44 | \$ 55,039.21 | \$ 59,686.90 | 10% | \$ 73,920.76 | 0% |
| 3 | MACON | OGLETHORPE | 14.46 | 1,007 | \$ 22,146.10 | \$ 23,094.40 | \$ 23,826.34 | 10% | \$ 29,508.95 | 0% |
| 1 | MADISON | (UNINCORPORATED) | 594.38 | 27,134 | \$ 787,408.27 | \$ 808,428.88 | \$ 892,331.10 | 30% | \$ 1,105,182.19 | 0% |
| 1 | MADISON | CARLTON | 5.55 | 259 | \$ 8,158.37 | \$ 7,803.54 | \$ 8,366.52 | 30% | \$ 10,362.21 | 0% |

LOWNDES COUNTY BOARD OF COMMISSIONERS
COMMISSION AGENDA ITEM

SUBJECT: A New Addition to the Lowndes County Jail Guaranteed
Maximum Price (GMP)

DATE OF MEETING: May 28, 2024

Work
Session/Regular
Session

BUDGET IMPACT: \$8,965,053.00

FUNDING SOURCE:

- Annual
- Capital
- N/A
- ARPA/SPLOST
- TSPLOST

COUNTY ACTION REQUESTED ON: Lowndes County Jail New Addition GMP

HISTORY, FACTS AND ISSUES: Lowndes County Staff, the Architect (Studio 8 Design Architects), and the Construction Manager (Allstate Construction and Cauthan Construction Joint Venture, LLC) have been working on the Guaranteed Maximum Price (GMP) since the subcontractor bids were received in March. The project includes constructing a new sixty (60) cell facility that will join the existing medical area at the jail. The Construction Manager has submitted a GMP of \$8,965,053.00.

OPTIONS: 1. Approve the GMP and authorize the Chairman to Sign Exhibit "F" of the Construction Manager agreement.
2. Redirect.

RECOMMENDED ACTION: Approve

DEPARTMENT: Engineering

DEPARTMENT HEAD: Chad McLeod

ADMINISTRATIVE COMMENTS AND RECOMMENDATIONS:

FORM

**STANDARD CONSTRUCTION MANAGEMENT AGREEMENT:
COST-PLUS WITH GUARANTEED MAXIMUM PRICE
(GEORGIA PUBLIC WORKS PROJECT)**

BY AND BETWEEN

**BOARD OF COMMISSIONERS
OF LOWNDES COUNTY**

AND

**Allstate Construction Group/Cauthan Construction Company, Joint Venture,
LLC**

FOR

**A New Addition for the Lowndes County Jail
for
Lowndes County Board of Commissioners**

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| Exhibit "A" | Not Used | |
| Exhibit "B" | Not Used | |
| Exhibit "C" | Not Used | |
| Exhibit "D" | Liquidated Damages | |
| Exhibit "E" | Payment and Performance Bonds | |
| Exhibit "F" | Amendment No. 1 to Standard Agreement | |
| Exhibit "G" | Application for Payment | |
| Exhibit "H" | Notice of Commencement | |

**STANDARD CONSTRUCTION MANAGEMENT AGREEMENT:
COST-PLUS WITH GUARANTEED MAXIMUM PRICE
(GEORGIA PUBLIC WORKS PROJECT)**

THIS STANDARD CONSTRUCTION MANAGEMENT AGREEMENT: COST-PLUS WITH GUARANTEED MAXIMUM PRICE ("Agreement") is made and entered this 22nd day of November, 2023 by and between **BOARD OF COMMISSIONERS OF LOWNDES COUNTY** ("Owner") and Allstate Construction Group/Cauthan Construction Company, Joint Venture, LLC for services to be provided in connection with A New Addition for the Lowndes County Jail (the "Project").

In consideration of the mutual promises contained herein, and for other good and valuable consideration, the parties agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATIONS

1.1 Definitions. As used herein, the following terms have these stated definitions:

1.1.1 The terms "Accept", "Acceptance", "Accepted", or words of similar import shall mean express acceptance in writing by Owner.

1.1.2 Not used.

1.1.3 The term "Allowance" means those portions of the Work that are priced according to Unit Prices as shown on Exhibit III to the executed Amendment No. 1.

1.1.4 "Approve", "Approval", "Approved" or words of like import mean the express approval in writing of a party to this Agreement.

1.1.5 The term "Architect" means. Owner shall have the right to designate a successor Architect, at its sole discretion.

1.1.6 The term "Architect's Certificate" means a certificate, on AIA Form G-704, executed by Architect and stating that the Project is Substantially Complete.

1.1.7 The term "Certificate of Occupancy" means a certificate of occupancy, issued by an appropriate governmental authority, with respect to the Project or a designated portion thereof.

1.1.8 The term "Claim" means a demand or assertion by Owner or Construction Manager seeking, as a matter of right, the payment of money or the adjustment or interpretation of the Agreement or other relief arising under or relating to this Agreement, including an adjustment to the GMP or the extension of the Substantial Completion Date or the Final Completion Date.

1.1.9 The term "Construction Documents" means those revisions of the Plans and Specifications that have been Approved by Owner and marked by Architect as "Released for Construction."

1.1.10 The term "Contract Documents" means this Agreement, the completed and executed Amendment No. 1, the Construction Documents, the Exhibits attached thereto, and the documents incorporated therein, as subsequently amended in accordance with Article 12 of this Agreement.

1.1.11 The term "day" means calendar day unless otherwise specifically designated.

1.1.12 The term "Deliverables" means revisions of the Plans and Specifications identified in Exhibit "IV" to Amendment No. 1. The purpose of the Deliverables, including the Construction Documents, is to further refine and detail the design intent expressed in the Plans and Specifications identified in Exhibit "IV" to Amendment No. 1.

1.1.13 The term "Deliverables Schedule" means the dates set forth in Exhibit "I" to Amendment No. 1 for delivery to Construction Manager of the Deliverables identified in Exhibit "I" to Amendment No. 1.

1.1.14 The term "Disputes Clause" refers to Article 17 of this Agreement.

1.1.15 Not used.

1.1.16 The term "Final Completion Date" means the latest date on which all work on the Project must be Accepted to avoid the imposition of Final Completion Liquidated Damages, subject to extension by Change Order for Permissible Extensions, which date is set forth in Article Two of Amendment No. 1 and made a part hereof by reference.

1.1.17 The term "Final Punch List" means the list of items established pursuant to Article 11 that remain to be completed after Substantial Completion of the Project.

1.1.18 The term "Hazardous Materials" means: (i) any substances defined as or included within the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic substances", "hazardous pollutants" or "toxic pollutants", as those terms are used in the Resource and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act and the Clean Water Act, or any amendments thereto, or any regulation promulgated thereunder; (ii) any "PCBs" or "PCB items" (as defined in 40 C.F.R. § 761.3); or (iii) any "asbestos" (as defined in 40 C.F.R. § 763.63). The term "Hazardous Materials" as used herein shall not be deemed to include any materials that are included in the preceding definition but which are used, stored or generated in quantities or forms that are not regulated or prohibited.

1.1.19 The term "Hold Harmless" means to hold harmless from, indemnify and defend against, and pay promptly on demand therefor any and all claims, demands, actions, causes of actions, losses, expenses (including attorney's fees and court costs), costs, damages and all liabilities arising out of or incurred in connection with an identified circumstance, incident, condition, relationship, time period or other matter.

1.1.20 The term "Notice" means a notice, request, demand or other communication issued pursuant to Paragraph 19.9 of this Agreement.

1.1.21 The term "Owner" means Board of Commissioners of Lowndes County or its successor or assign.

1.1.22 The term "Payment Application" means an application for payment made by Construction Manager and furnished to Owner.

1.1.23 The term "Permissible Extension" means an extension of the Substantial Completion Date or the Final Completion Date that Owner agrees to in writing, that is due to a delay directly caused by events or circumstances beyond Construction Manager's control and without the fault or negligence of Construction Manager, which events or circumstances may include to the extent that the foregoing requirements are satisfied: (1) acts of God or of the public enemy, (2) acts of another contractor in the performance of a contract with Owner, (3) delays in the preparation and delivery of Deliverables, (4) fires, (5) floods, (6) epidemics, (7) quarantine restrictions, (8) strikes, (9) freight embargoes, (10) unusually severe weather in excess of that for which a prudent contractor would provide, (11) delays of Subcontractors or Suppliers arising from unforeseeable causes that are beyond the control of, and without fault or negligence of, Construction Manager or such Subcontractors and Suppliers, or (12) the discovery of unanticipated concealed Site conditions or Hazardous Materials during the construction of the Project.

1.1.24 Not used.

1.1.25 The term "Substantial Completion Date" means the date by which the Project is to be Substantially Completed (subject to extension by Change Order for Permissible Extensions). The Substantial Completion Date for the Project is set forth in Article Two of Amendment No. 1.

1.1.26 The term "Substantial Completion Liquidated Damages" means the liquidated damages due and payable to Owner in the event that the Project is not Substantially Complete, by the Substantial Completion Date. The Substantial Completion Liquidated Damages applicable to the Project are set forth on Exhibit "D" attached hereto.

1.1.27 The term "Plans" means the architectural and engineering drawings for the Project which are described in Exhibit "IV" to Amendment No. 1.

1.1.28 The term "Project" means A New Addition for the Lowndes County Jail for the Lowndes County Board of Commissioners, located in Valdosta, Lowndes County, Georgia.

1.1.29 The term "Projected Completion Notice(s)" is defined in Paragraph 4.4.6.

1.1.30 The term "punch list" means the items of Work that remain to be completed with respect to the Project after Substantial Completion thereof.

1.1.31 The term "Request for Quotation" is defined in Article 12 of this Agreement.

1.1.32 The term "Site" means all that tract or parcel of land located on the project site.

1.1.33 The term "Specifications" means the specifications for the Project which are described on Exhibit "IV" to Amendment No. 1, and which consist of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work and the performance of related services.

1.1.34 The term "Subcontractor" means a person or entity that has a direct contract with Construction Manager to perform a portion of the Work at the Site.

1.1.35 The terms "Substantial Completion" or "Substantially Complete" mean that (i) the Work and all other things necessary for Owner's access to the Project and Owner's occupancy, possession, use and enjoyment thereof have been completed, obtained, and installed in conformance with the Construction Documents and all applicable codes and federal requirements, excepting only such minor matters as do not, in the reasonable opinion of Owner, interfere with, or materially diminish, such access, occupancy, possession, use or enjoyment; (ii) Architect has delivered Architect's Certificate for the Project; and (iii) all appropriate Certificates of Occupancy have been issued with respect to the Project.

1.1.36 The term "Supplier" means a person or entity that has a direct contract with Construction Manager to furnish goods, materials or equipment for use in connection with performance of the Work at the Site.

1.1.37 The term "Work" means all labor, services, equipment or materials required of Construction Manager under this Agreement or under the Construction Documents, and includes all labor, services, equipment or materials necessary to construct the entire Project in strict compliance with this Agreement. As used herein, the term "Work" may constitute the whole or a part of the Project.

1.2 Interpretations. The following rules of interpretation apply to the Agreement and are by this reference incorporated into the Agreement:

- .1 the word "or" is not exclusive;

- .2 the words “including”, “include” or “included” are not limiting;
- .3 the words “hereby,” “herein,” “hereof,” “hereunder” or other words of similar meaning refer to the entire document in which it is contained;
- .4 a reference to any agreement or other contract includes permitted supplements, amendments and restatements;
- .5 a reference to a law includes any amendment or modification to such law and any rules or regulations promulgated thereunder or any law enacted in substitution or replacement therefore;
- .6 a reference to singular includes plural and vice-versa and each gender includes the other;
- .7 Article and Section headings and table of contents are only for reference and are not to be considered in interpreting this Agreement;
- .8 a reference to an Article, Section, Exhibit or Schedule which does not specify a particular document is to the relevant Article, Section, Exhibit or Schedule of the document containing the reference;
- .9 a reference to an Article includes all Sections and Subsections contained in such Article, and a reference to a Section or Subsection includes all Subsections of such Section or Subsection; and
- .10 All terms not otherwise defined herein will have the meaning commonly ascribed thereto in the relevant industry;

ARTICLE 2

INSURANCE

- 2.1 Construction Manager's Insurance.** Construction Manager shall purchase and maintain such insurance as will protect it from the claims set forth below which may arise out of or result from Construction Manager's operations under this Agreement whether such operations be by itself or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable:
- 2.1.1** Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed.
 - 2.1.2** Claims for damages because of bodily injury, occupational sickness or disease, or death of employees under any applicable employer's liability law.
 - 2.1.3** Claims for damages because of bodily injury, or death of any person other than employees.
 - 2.1.4** Claims for damages covered by usual personal injury liability coverage which are sustained (1) by any person as a result of an act(s) or omission(s) directly or indirectly related to the employment of such person by Construction Manager, or (2) by any other person.
 - 2.1.5** Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use therefrom.

2.1.6 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

2.1.7 All insurance required to be maintained by Construction Manager under this Agreement shall in each case name the Lowndes County Board of Commissioners as an additional named insured, and Construction Manager shall provide written evidence thereof from each insurance company issuing said policy(ies).

2.1.8 Commercial General Liability Insurance shall be provided by Construction Manager, including premises operations (including explosion, collapse and underground coverages), elevators, independent contractors, completed operations, and blanket contractual liability on all written contracts, all including broad form property damage coverage. Owner shall be an additional insured on Construction Manager's Automobile Liability policy and on its Commercial General Liability policy until Owner's Commercial General Liability policy becomes applicable. Construction Manager's Commercial General Liability and its Automobile Liability policies shall provide that they cannot be or declared to be invalid as to Owner in its capacity as an additional insured thereunder by reason of any breach or violation by any named insured of any warranties, representations, declarations or conditions contained in the policies.

2.1.9 The insurance required by this Paragraph 2.1 shall be written for not less than any limits of liability required by law or by those set forth below, whichever is greater. Coverage shall be written on an occurrence basis, with no sunset clause, and shall be maintained until date of final payment or as required by the Contract Documents.

| | | |
|----|---|-------------|
| 1. | Worker's Compensation: | |
| | (a) Applicable federal | Statutory |
| | (b) Applicable state | Statutory |
| | (c) Employer's Liability | \$3,000,000 |
| 2. | Bodily Injury: | |
| | Each Occurrence | \$3,000,000 |
| | Aggregate | \$5,000,000 |
| 3. | Property Damage | |
| | Each Occurrence | \$1,000,000 |
| | Aggregate | \$3,000,000 |
| 4. | Personal Injury: | |
| | Aggregate | \$3,000,000 |
| | Employment Exclusion Deleted | |
| 5. | Automobile Liability - Owner, Non-Owned and Hired | |
| | Bodily Injury Each Person | \$1,000,000 |
| | Bodily Injury Each Accident | \$1,000,000 |
| | Property Damage Each Occurrence | \$1,000,000 |
| 6. | Contractual Liability (Hold Harmless Coverage) | |
| | Bodily Injury Each Occurrence | \$3,000,000 |
| | Property Damage Aggregate | \$3,000,000 |
| | Property Damage Each Occurrence | \$1,000,000 |

2.1.10 The foregoing policies shall contain a provision that coverages afforded under the policies will not be canceled or not renewed until at least forty-five (45) days' prior written notice has been given to Owner. Certificates

of Insurance showing such coverages to be in force shall be filed with Owner prior to the commencement of the Work.

2.1.11 Construction Manager shall provide Owner with certificates in duplicate evidencing such coverages upon the execution of this Agreement, and shall provide Owner with copies of all such policies prior to the initiation of construction of the improvements on the Site. Copies of any subsequent endorsements shall also be furnished. Construction Manager will provide Owner forty-five (45) days Notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage.

2.1.12 No acceptance or approval by Owner of any insurer or insurance policy or policies shall relieve or release Construction Manager from any liability, duty or obligation assumed by, or imposed upon it by, the Contract Documents.

2.2 Insurance to Protect the Project. Owner shall purchase and maintain policies of insurance for builder's risks, hazard, fire, and flood with limits at least equal to the replacement cost of the Project on a completed value basis (the "Builder's Risk Policy"), and such boiler and machinery insurance as is necessary. To the extent that errors or omissions of Construction Manager contribute to any loss, Construction Manager will be responsible for any co-insurance penalties or deductibles.

2.3 Property Insurance Loss Adjustment. Any insured loss shall be adjusted by Owner and made payable to Owner and Construction Manager, as their interests may appear. If they are unable to agree between themselves on the distribution, this dispute shall be submitted to resolution pursuant to the Disputes Clause.

2.4 Waiver of Subrogation. Owner and Construction Manager waive all rights against each other, Architect and Subcontractors for all loss or damage, but only to the extent such loss is covered by property insurance provided under this Article 2. Construction Manager shall require and secure similar waivers from all Subcontractors. If any policy of insurance requires an endorsement to provide for continued coverage where there is a waiver of subrogation, the purchaser of such policy will cause it to be so endorsed.

ARTICLE 3

PAYMENT AND PERFORMANCE BONDS

3.1 Upon the execution of this Agreement by all parties, Construction Manager shall provide Owner a payment bond and performance bond in accordance with O.C.G.A Sections 36-91-90 *et seq.* and O.C.G.A. Sections 36-91-70 *et seq.*, respectively. The bonds shall be in the form of the forms attached as Exhibit "E". The penal amounts of the bonds shall be 100% of the Guaranteed Maximum Price. The performance bond shall expressly cover all Liquidated Damages referenced herein. As used in the performance bond, the phrases "perform and complete the Construction Contract" and "performance and completion of the Construction Contract" shall include performance and completion of all of the duties and obligations of the Construction Manager under this Agreement, in accordance with all terms and conditions applicable thereto. As used in the performance bond, the term "Balance of the Contract Price" shall mean the total amount of any undisputed payments owed by Owner to the Construction Manager under this Agreement, through the date that the Owner makes demand on the Surety for performance. As used in the performance and payment bonds, the term "Owner Default" shall mean failure of the Owner to pay any undisputed amounts owed to the Construction Manager through the date of the demand by Owner for performance by the Surety and, in the event that the Owner calls on the Surety to perform under the performance bond, the Construction Manager hereby waives any default or failure by the Owner other than failure of the Owner to make payment as provided in this subparagraph. As used in the payment bond, "Owner Default" shall further mean only an Owner default that gives rise to the filing of the subject claim. Such bonds shall be issued by surety company or companies listed by the Department of the Treasury as "Companies Holding Certificates Of Authority As Acceptable Sureties On Federal Bonds And As Acceptable Reinsuring Companies" as revised annually on July 1

(see Federal Register Vol. 57, No. 127) and the surety or sureties shall verify in writing that such performance and payment bonds shall not be subject to revocation, modification or cancellation without the prior written approval of the obligees.

ARTICLE 4

CONSTRUCTION MANAGER'S RESPONSIBILITIES

4.1 Duties of Construction Manager. Construction Manager accepts the relationship of trust and confidence established with Owner by this Agreement, and covenants with Owner to furnish Construction Manager's best skill and judgment and to cooperate with Architect in furthering the interests of Owner. Construction Manager shall furnish construction, construction administration, management and supervisory services, and use Construction Manager's best efforts to perform the Project in an expeditious and economical manner consistent with the interests of Owner.

4.2 Preconstruction Services.

4.2.1 Construction Manager shall jointly schedule and attend regular meetings with Owner and Architect. Construction Manager shall consult with Owner and Architect regarding site use and improvements, and the selection of materials, building systems and equipment. Construction Manager shall provide recommendations on construction feasibility, actions designed to minimize adverse effects of labor or material shortages, time requirements for procurement, installation and construction completion, and factors related to construction cost including value engineering and estimates of alternative designs or materials, preliminary budgets and possible economies.

4.2.2 Construction Manager shall not be required to provide professional services which constitute the practice of architecture or engineering, unless such services are specifically required by the Contract Documents or unless Construction Manager has specifically agreed in writing to provide such services. In such event, Construction Manager shall cause such services to be performed by appropriately licensed professionals.

4.3 Construction Services.

4.3.1 Construction Manager shall have full responsibility and liability, subject to the other terms hereof, for performance of all of the Work and the construction of the entire Project. Construction Manager retains all responsibility for construction techniques, means, methods, sequences and procedures performed by Construction Manager, Subcontractors, or sub-subcontractors of any tier, regardless of whether Owner, Architect, a Subcontractor, or sub-subcontractors, or the Construction Documents suggest any such techniques, means, methods, sequences or procedures.

4.3.2 Construction Manager acknowledges that the performance of construction Work is professional in nature, and regardless of Owner's or Architect's review, approval or concurrence of any type, Construction Manager is responsible for all errors and omissions in the Work and all damages resulting therefrom.

4.3.3 Without limitation of its responsibilities for the performance of the Work, Construction Manager shall:

4.3.3.1 Cause the Work to be performed in a prompt and expeditious fashion, in a good and workmanlike manner, in strict compliance with the Construction Documents, and in accordance with all applicable laws, including those relating to environmental protection, asbestos and Hazardous Materials. The Contract Documents are complimentary, and what is required by one shall be as binding as if required by all. In the event of any conflict in the requirements of the Contract Documents, Construction Manager shall install and complete the Work in accordance with the highest and best of said requirements.

4.3.3.2 Cause the Project to be Substantially Completed on or prior to the Substantial Completion Date and Finally Complete on or prior to the Final Completion Date, subject only to Permissible Extensions.

4.3.3.3 Coordinate the Work and supervise the Work of Subcontractors and the procurement of supplies and materials from Suppliers. Construction Manager shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

4.3.3.4 Maintain a competent, full-time staff with appropriate expertise to coordinate and provide general direction of the Work.

4.3.3.5 Pay all sales, use, gross receipts and similar taxes which relate to the Work.

4.3.3.6 Keep the premises free from the accumulation of waste or rubbish caused by its operations and those of its Subcontractors and Suppliers. At the completion of the Work, Construction Manager shall remove all of its waste and rubbish from and around the Project, as well as all its tools, construction equipment, machinery and surplus materials.

4.3.3.7 Give all notices and comply with all laws and ordinances which govern the proper execution of the Work.

4.3.3.8 Secure all required certificates of inspection, testing or approval and deliver them to Owner.

4.3.3.9 Collect all written warranties and equipment manuals and deliver them to Owner.

4.3.3.10 Unless otherwise provided in the Contract Documents, Construction Manager shall obtain and pay for all necessary permits or licenses, including utility tap fees.

4.3.3.11 Inspect portions of the Work already performed to determine that such portions are in proper condition to receive subsequent Work.

4.3.3.12 Provide and pay for all supervision, labor, materials, equipment, utility services (including water, gas, electricity, sewage, or waste water), tools, supplies, transportation and other items or facilities necessary for the execution and completion of the Work in accordance with the Contract Documents.

4.3.4 Construction Manager shall include the obligations of this Paragraph 4.3 in all appropriate Subcontracts.

4.4 Construction Schedules. Construction Manager shall:

4.4.1 Furnish Owner with a schedule (the "Construction Schedule") showing complete preconstruction, procurement, and construction activities using Primavera scheduling software or an alternative scheduling software approved by Owner in writing. The Construction Schedule shall incorporate the Deliverables Schedule, Substantial Completion Date, Final Completion Date, and other milestone dates and information contained in Article Two of Amendment No. 1 and Exhibit "I" to Amendment No. 1.

4.4.2 Schedule and conduct progress meetings on a regular basis, and not less frequently than once each week, at which Owner, Architect, Construction Manager, and Subcontractors may discuss jointly such matters as procedures, progress, problems and scheduling. Construction Manager shall provide and distribute minutes of such meetings, including therein a list of the action items, responsible parties and action dates to maintain the Construction Schedule.

4.4.3 Provide regular monitoring of the Construction Schedule as construction progresses, identify potential variances between scheduled and probable completion dates, review the schedule for Work not started or incomplete and recommend to Subcontractors adjustments in the Construction Schedule to meet the Substantial Completion Date, and provide in each monthly report to Owner a written summary of any changes, modifications, resequencing, delay, acceleration or other adjustments in or to the Construction Schedule.

4.4.4 Record the progress of the Work in monthly progress reports and furnish same to Owner.

4.4.5 Determine the adequacy of Construction Manager's and Subcontractors' personnel and equipment, and the availability of materials and supplies to meet the Construction Schedule, and take appropriate action when requirements of the Subcontracts are not being met.

4.4.6 Provide Owner the following Notices of the anticipated Substantial Completion Date (the "Projected Completion Notice(s)"):

- .1 Six (6) months prior to the good faith estimate by Construction Manager of the date of Substantial Completion;
- .2 Ninety (90) days prior to the actual date of Substantial Completion; and
- .3 Thirty (30) days prior to the actual date of Substantial Completion.

4.5 Schedule of Values. Construction Manager shall:

4.5.1 Prepare and provide to Owner a Schedule of Values including therein as a line item the estimated cost for each major component of the Work within the Guaranteed Maximum Price, and revise and refine the Schedule of Values at appropriate intervals as reasonably required by Owner, Architect or the conditions of the Work and Project. The Schedule of Values shall contain a separate line item for the anticipated costs of Construction Manager's personnel to be included in the Cost of the Work under Paragraph 10.2.1 of this Agreement. The Schedule of Values, and as revised thereafter, is provided by Construction Manager for the purpose of permitting Owner to monitor the progress of the Work. Except for the Guaranteed Maximum Construction Manager's Personnel Cost, Construction Manager does not guarantee any line item cost stated in the Schedule of Values and shall not be bound by any estimated line item amount stated in the Schedule of Values.

4.5.2 Maintain cost accounting records for all Costs of the Work, including authorized Work performed under unit costs, actual costs for labor and materials, and other bases requiring accounting records, and submit its Applications for Payment based on actual costs incurred to perform the Work.

4.6 Review of Contract Documents and Field Conditions.

4.6.1 Construction Manager shall carefully study and compare the Plans and Specifications, Deliverables, Construction Documents, and other Contract Documents with each other and shall at once report in writing to Owner and Architect errors, inconsistencies or omissions discovered. Construction Manager shall not be liable to Owner or Architect for damage resulting from errors, inconsistencies or omissions in such documents unless Construction Manager failed to conduct such a careful review, or Construction Manager recognized, or reasonably should have recognized through careful review, such error, inconsistency or omission and failed to report it to Owner and Architect. If Construction Manager performs any construction activity that it knows, or reasonably should know, involves an error, inconsistency or omission in the Contract Documents without such notice to Owner and Architect, Construction Manager shall assume responsibility for such performance and shall bear the costs for correction.

4.6.2 Construction Manager shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Construction Manager with the Plans and Specifications, Deliverables, Construction Documents, and other Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to Architect at once.

4.7 Shop Drawings, Product Data and Samples.

4.7.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by Construction Manager or a Subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

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

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

4.7.4 Construction Manager shall review, approve and submit to Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or of separate contractors.

4.7.5 Construction Manager shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by Architect. Such Work shall be in accordance with approved submittals.

4.7.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, Construction Manager represents that Construction Manager has determined and verified materials, field measurements and field construction criteria related thereto, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.7.7 Construction Manager shall indicate that it has checked and coordinated Shop Drawings by stamping each sheet of the prints and sepias required in Paragraph 4.7.12. In addition, on one set of blue-line prints, Construction Manager shall perform its review and indicate review of specific dimensions, notes, etc., by yellowing or checking the specific information.

4.7.8 Construction Manager shall not be relieved of responsibility for deviations from requirements of the Contract Documents by Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless Construction Manager has specifically informed Architect in writing of such deviation at the time of submittal and Architect has given written approval to the specific deviation. Construction Manager shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by Architect's approval thereof.

4.7.9 Construction Manager shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by Architect on previous submittals.

4.7.10 Shop Drawings shall include, notwithstanding any additional information required in trade sections: all working and erection dimensions; views as required to show fully all construction and fabrication methods, profiles and materials; and all data on anchoring and relationship to other construction, sizes, types, finishes, and colors of material. Each sheet of Shop Drawings shall indicate the name of Project, applicable specification section, Construction Manager stamp indicating approval, date of submittal, and any previous submittals.

4.7.11 Submission of Shop Drawings shall be accompanied by transmittal letter containing the Project name, Construction Manager's name, number of drawings, titles, and other pertinent data.

4.7.12 Unless otherwise specified in writing, Construction Manager shall submit three (3) sets of blueline prints of all Shop Drawings. Architect will retain the blueline prints and return the sepias to Construction Manager. For manufacturer's data, Construction Manager shall submit the number of copies that Construction Manager requires to be returned, plus three which will be retained by Architect for distribution.

4.7.13 Samples, Shop Drawings, and Product Data will be returned to Construction Manager noted for action as follows:

4.7.13.1 'Reviewed' indicates that the submittal has been reviewed for general conformance with the design concept of the project and general compliance with the information given in the contract documents. All submittals shall be Reviewed before they are issued for field use.

4.7.13.2 'Revised and Resubmit' indicates that submittal has been reviewed as noted in Paragraph 4.7.13.1 above, and corrections indicated. Construction Manager shall make corrections as noted and resubmit. This notation will permit fabrication to begin on items not affected by correction.

4.7.13.3 'Rejected' indicates that the submission is unacceptable and requires resubmission. Construction Manager shall make corrections as noted and resubmit. Fabrication shall not begin on items covered by Shop Drawings bearing this notation.

4.7.13.4 'Approved as Noted' indicates that submittal has been reviewed as noted in Paragraph 4.7.13.1 above with minor corrections (not affecting fabrication) indicated. Resubmittal is not required.

4.8 Administrative Responsibilities. Construction Manager shall:

4.8.1 Develop and implement, consistent with the Contract Documents, a procedure for reviewing, processing, recording and paying Subcontractors and Suppliers upon their application for same, and develop and implement a procedure for the review, processing and payment of applications by Subcontractors and Suppliers for progress and final payments, including a retainer release method that corresponds to Owner's release of retainage to Construction Manager.

4.8.2 Develop and implement a system for preparation, review and processing of Change Orders, recommend necessary or desirable changes to Owner, review requests for changes by Owner or by Subcontractors or Suppliers, submit recommendations to Owner with respect to proposed Change Orders, and implement Change Orders as approved by Owner.

4.8.3 Review and inspect the work of Subcontractors and Suppliers for defects and deficiencies and develop and implement a system, including appropriate quality control documentation, for ensuring that all such defects and deficiencies are corrected.

4.8.4 Develop and implement an effective security program for the Project Site.

4.8.5 Maintain, on a current basis, copies of all Subcontracts, Plans and Specifications, Construction Documents, Contract Documents, the Project Schedule, shop drawings, maintenance and operating manuals and records relating to Project materials, equipment and construction, including marked-up drawings and specifications showing actual locations of utilities and all changes and alterations made during construction.

4.8.6 Construction Manager shall not make or cause to be made, or permit, any contract for materials or equipment of any kind or nature whatsoever to be used in connection with the Work on a conditional sales or any

other basis whereby the title to the equipment or materials does not pass to Owner upon payment by Owner, free and clear of any lien, financing arrangement, or other impediment to title.

4.8.7 If a development permit is required for the Project, then Construction Manager shall assume Owner's indemnification and hold harmless obligation to Lowndes County as set forth in the development permit application for the Project.

4.9 Safety.

4.9.1 Construction Manager shall design, implement, and maintain a safety program for the Work.

4.9.2 Construction Manager shall establish and require all Subcontractors or Suppliers to establish reasonable safety programs. No imposition of responsibility on Construction Manager for safety under this Agreement shall relieve any Subcontractor of its responsibility for safety of persons or property on or near the Site.

4.9.3 Construction Manager shall take necessary precautions for the safety of its employees at the Site, and shall comply with all applicable provisions of federal, state and municipal safety laws to prevent accidents or injury to persons on, about or adjacent to the Site. Construction Manager shall erect and properly maintain, at all times, as required by the conditions and progress of Work, necessary safeguards for the protection of workmen and the public.

4.10 Work Force.

4.10.1 The following supervisory personnel have been assigned by Construction Manager to the Project:

| <u>Position</u> | <u>Name</u> |
|-----------------|-------------|
|-----------------|-------------|

4.10.2 Unless the assigned personnel identified in Paragraph 4.10.1 leave the employ of Construction Manager, they shall not be removed from the Project or promoted or transferred to a different position with respect to the Project without the prior reasonable approval of Owner. Construction Manager shall immediately notify Owner of any personnel changes caused by personnel leaving the employ of Construction Manager, and shall immediately submit substitute personnel for Owner's consideration and approval.

4.10.3 Construction Manager shall employ, and require all Subcontractors and Suppliers to employ, only skilled workmen properly qualified by experience and ability to perform the task assigned to them. Construction Manager shall be responsible to Owner for acts and omissions of Construction Manager's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work.

4.10.4 Construction Manager and Subcontractors shall maintain and assign to the Work, at all times, sufficient staff and personnel to perform their services in a skilled, professional and satisfactory manner so as not to delay the progress of the Work. Construction Manager shall give Notice to Owner in writing of any Subcontractor or Supplier that it proposes to use on the Project that has a financial or corporate relationship to Construction Manager. Construction Manager shall not use such entities without written permission of Owner.

4.11 Hazardous Materials and Clean-Up.

4.11.1 Construction Manager shall ensure that neither it, its Subcontractors, nor their employees or agents bring any Hazardous Material or other materials regulated by state, federal or local law, which materials are not commonly used in the construction process or which materials are not listed in the Specifications for the Project, onto the Site without first obtaining Owner's advance Approval. Construction Manager shall ensure that any Hazardous Material or other materials regulated by state, federal or local law that Construction Manager, its Subcontractors or their employees or agents bring onto or generate at the Site are handled in accordance with all

applicable laws, and Construction Manager shall Hold Harmless Owner against any expenses, liabilities, damages and costs (including clean-up costs, attorneys' fees, court cost, fines and penalties) arising from same.

4.11.2 In accordance with the OSHA Hazard Communication Standard (29CFR 1910.1200), Construction Manager shall provide, for any Work which involves the use of chemicals for which a Material Safety Data Sheet (MSDS) has been prepared, copies of said MSDS for distribution to the appropriate persons.

4.11.3 Contractors wishing to review the MSDS's for any hazardous materials their employees may be exposed to at the Site may contact Lowndes County for copies of any MSDS's specific to the area where the work is being conducted.

4.11.4 If required by the Contract Documents, Construction Manager shall supply all labor, material, equipment, contractors, testing and monitoring to cause to be removed from the Site or otherwise disposed of in a manner permitting the timely completion of the Project, all Hazardous Wastes, asbestos, contaminated soil and water or similar materials, in each case in compliance with all applicable laws, rules and regulations. Unless specifically provided in the Contract Documents, Owner shall have no responsibility for the testing, removal, handling or disposal of such materials.

4.11.5 Upon Substantial Completion by a Subcontractor of any Subcontract, Construction Manager shall require the Subcontractor to remove from the Project and Site all temporary systems, tools, equipment, machinery and surplus materials not required for the continued performance of any Work by the Subcontractor. Upon Substantial Completion of the Project, Construction Manager shall, to the extent applicable, remove all wastes and rubbish, clean all tile and glass surfaces, replace broken glass, remove stains, paint spots, and clean and polish all plumbing fixtures and equipment, leave the Work "vacuum clean," and restore existing facilities such as roads, other paved surfaces, fencing, curbing and the like at the Site to at least their pre-construction conditions; provided, however, Construction Manager may, in an orderly fashion, leave such equipment and supplies at the Site as necessary to achieve Final Completion of the Project.

4.12 Royalties and Patents. Construction Manager shall pay all royalties and license fees for materials, methods and systems incorporated in the Work. Construction Manager shall defend and Hold Harmless Owner from all suits or claims for infringement of any patent, copyright, or other similar protections or rights.

4.13 Warranties and Correction of Work.

4.13.1 Construction Manager warrants jointly and severally to Owner that all materials and equipment furnished under this Agreement will be of good quality, will be new unless otherwise required or permitted by the Contract Documents, and that the Work will be free from defects and in accordance with the Construction Documents. Without limiting the foregoing, Construction Manager agrees to correct all defects in materials or workmanship in the Work that appear within a period of one (1) year from the date of Final Completion of the Project, or for such longer periods of time as may be set forth with respect to specific warranties contained in the Specifications. Construction Manager shall correct all further defects that appear in Work that is repaired or replaced pursuant to this Paragraph 4.13.1 within one (1) year after such repair or replacement is completed.

4.13.2 Owner shall provide Construction Manager with a Notice, within a reasonable time after Owner learns of any failure, defect, or damage that is the subject of the warranty contained in this Paragraph 4.13. Delay in providing such Notice shall affect Construction Manager's obligations only to the extent that such failure materially and substantially prejudices Construction Manager.

4.13.3 If Construction Manager fails to remedy any failure, defect, or damage which is the subject of a warranty contained in this Paragraph 4.13, promptly upon receipt of Notice, Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage, all at Construction Manager's expense.

4.13.4 With respect to warranties from Subcontractors, manufacturers, or Suppliers of the Work and materials furnished under this Agreement, Construction Manager shall:

.1 Obtain all warranties to which Owner or Construction Manager is entitled from such parties according to the Contract Documents and the Subcontracts and agreements with Suppliers;

.2 Require all such warranties to be executed, in writing, for the benefit of Construction Manager and Owner; provided that Owner agrees to assign or license its rights under such warranties to Construction Manager if necessary and if requested by Construction Manager to fulfill Construction Manager's obligations hereunder;

.3 Within the one (1) year warranty period contemplated by this Paragraph 4.13, enforce all such warranties for the benefit of Owner according to this Paragraph 4.13; and

.4 Provide copies of all warranties to Owner at the time the Project is Substantially Complete.

4.13.5 In the event Construction Manager's warranty under Paragraph 4.13 has expired, Owner may bring suit at its expense to enforce a Subcontractor's, manufacturer's, or Supplier's warranty.

4.13.6 Establishment of the time period of one (1) year as described in Paragraph 4.13.1 relates only to the specific obligation of Construction Manager to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Construction Manager's liability with respect to its obligations other than specifically to correct the Work. Nothing contained in this Paragraph 4.13 shall be construed to establish a period of limitation with respect to other obligations which Construction Manager has under the Contract Documents or applicable law.

ARTICLE 5

OWNER'S RESPONSIBILITIES

5.1 Owner shall make its authorized representative available to communicate with Construction Manager during business hours and at other reasonable times, either on Site or by electronic mail, telephone, telefax or otherwise.

5.2 Owner shall afford Construction Manager access to the Site in a timely fashion, and shall, except as otherwise provided in the Contract Documents, pay all impact fees, if any, associated with the construction of the Project.

5.3 Owner shall assist Construction Manager in securing necessary approvals and other rights or permits required for use or occupancy of structures or facilities contemplated by the Contract Documents.

5.4 If Owner observes a condition and is aware that such condition constitutes a fault or defect under the Contract Documents, Owner shall give prompt written notice thereof to Construction Manager; provided, however, Owner has no duty to Construction Manager to discover such faults or defects and its failure to do so does not excuse Construction Manager from its obligations under this Agreement.

5.5 Owner shall not direct the Work of any Subcontractor or Supplier except through Construction Manager.

5.6 Owner shall, upon request by Construction Manager, confer with Construction Manager regarding this Agreement, Construction Manager's performance hereunder, the requirements of any Contract or Construction

Documents, and any changes or modifications to same suggested by Construction Manager. Notwithstanding the foregoing, any changes or modifications to this Agreement or the Contract Documents must be in writing and must take the form of an Amendment, a Change Order, or a Construction Change Directive. No other changes, including verbal changes or modifications, shall be valid or binding, or relieve Construction Manager of any of its obligations under the Contract Documents. It is agreed by and between Owner and Construction Manager that any course of dealings hereinafter entered into which appear to change or modify the provisions of this Paragraph 5.6 or any other provision contained in the Contract Documents is deemed to have been entered into with full knowledge and understanding that such course of conduct shall not change or modify any provision of the Contract Documents, and particularly, this Paragraph 5.6.

5.7 Inspection of Project.

5.7.1 During the period of construction, the Project and Site shall be accessible for inspection by Owner and its representatives without Notice.

5.7.2 During the period of construction, Owner or a designated representative of Owner may, during regular business hours, enter the Project and upon the Site to determine the compliance by Construction Manager with the requirements of the Contract Documents, which purposes shall include, but not be limited to: (i) inspecting and testing the structure, finishes, and any mechanical and electrical systems; (ii) inspecting for any leaks, spills, or other potentially hazardous conditions which may involve exposure to hazardous or toxic substances; (iii) inspecting for any current or past hazardous waste operations, to ensure that appropriate mitigative actions were taken to alleviate any environmentally unsound activities in accordance with federal, state and local law and (iv) observing the progress of construction. Owner's Representative will notify Construction Manager's on-site supervisor when coming on-site.

5.7.3 The purpose of this Paragraph 5.7 is solely to promote the ease with which Owner may view and inspect the Project. Nothing in this Paragraph 5.7 shall act to relieve Construction Manager of any duty to inspect, or any liability which might arise as a result of Construction Manager's failure to inspect for or to correct a defective, non-conforming or hazardous condition.

5.7.4 The right of entry granted pursuant to this Paragraph 5.7 shall be exercised in accordance with any reasonable rules and regulations established by Construction Manager to prevent personal injury and promote safety. Any such entry by Owner shall not constitute Acceptance of the Project, and shall be at no cost to Owner.

5.8 Early Access to Project. Prior to the Acceptance of the Project, Construction Manager agrees to afford Owner and Owner's contractors a reasonable opportunity for introduction and storage of materials and equipment and performance of activities provided that Owner and Owner's contractors coordinate such activities with Construction Manager.

ARTICLE 6

SUBCONTRACTS

6.1 Subcontracts shall be between Construction Manager and the Subcontractor or Supplier selected by Construction Manager, subject to reasonable approval of Owner and the requirements that such Subcontracts be awarded as a result of a competitive process, as set forth in this Article.

6.2 Bidding.

6.2.1 Construction Manager shall identify to Owner in writing any Subcontractor or Supplier that it proposes to use on the Project that is affiliated with Construction Manager by reason of a financial, common-ownership or

corporate relationship to Construction Manager. Construction Manager shall not use such affiliated entities without written permission of Owner.

6.2.2 Construction Manager shall develop information for bidders for all of the Work. Such information shall describe the Work to be procured by Construction Manager through Subcontractors or Suppliers, using Construction Manager's own forms and procedures.

6.2.3 Before awarding any Subcontract expected to exceed \$100,000, or before pricing any Subcontract modification involving a pricing adjustment expected to exceed \$100,000, Construction Manager shall require the Subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless the price is set by law or regulation or is, in the reasonable opinion of Owner:

- .1 Based on adequate price competition; or
- .2 Based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

6.2.4 Construction Manager shall be entitled to take alternative bids as it deems necessary to advance the Work.

6.2.5 Upon receipt of bids, and prior to acceptance of any bid by Construction Manager, Construction Manager shall prepare a complete and thorough analysis of the bids received. Such bid analysis shall clearly indicate the apparent low bid from the bidder or bidders determined by Construction Manager to be responsible and responsive.

6.2.6 To be deemed a responsible bidder, the proposed Subcontractor or Supplier shall be reputable, skilled, reliable, competent, qualified in the trade or field in which they are to perform on the Project, be thoroughly familiar with applicable codes, and have the ability to obtain bonding from a bonding company acceptable to Owner and Construction Manager.

6.2.7 Subject to the Approval of Owner, which Approval shall not be unreasonably withheld, Construction Manager shall award the Work to a responsible Subcontractor or Supplier of Construction Manager's choosing, and shall proceed with the preparation of a purchase order or Subcontract incorporating all necessary terms and conditions of the Contract Documents. Upon execution by Construction Manager, and if requested by Owner, Construction Manager shall furnish a copy of the executed purchase order or Subcontract to Owner.

6.2.8 Should Owner unreasonably withhold approval of any responsible Subcontractor or Supplier chosen by Construction Manager in accordance with this Paragraph 6.2, then the GMP shall be increased by Change Order in the amount of the difference between the bona fide price offered by the Subcontractor or Supplier of Construction Manager's choice, and the price paid to the Subcontractor or Supplier that Construction Manager was required to use.

6.2.9 Construction Manager shall be allowed, when Approved in writing by Owner, to submit a sealed competitive bid on behalf of Construction Manager or an affiliated company for any portion of the Work. Before Construction Manager or any affiliated company will be permitted to perform any part of the Work, Construction Manager will be required to show that it has made a good faith effort to solicit bids or proposals from responsible subcontractors for the Work, has received at least three subcontractor bids or proposals, and that the anticipated cost of performance by Construction Manager or its affiliated company is lower than any bids or proposals received from responsible subcontractors. The intent of this paragraph is to allow the Construction Manager to "protect" GMP pricing. Should Owner unreasonably withhold approval for Construction Manager to submit a competitive bid for a portion of the Work, the Construction Manager's remedy will be in accordance with Paragraph 6.2.8 of this Agreement.

6.3 Notice of Commencement and Notices to Contractor.

6.3.1 Owner shall furnish to Construction Manager such information regarding Owner as may be necessary for Construction Manager to complete the Notice of Commencement form attached hereto as Exhibit "H." Construction Manager shall complete the Notice of Commencement, shall file it with the Clerk of Superior Court in Lowndes County within ten (10) days after Construction Manager physically commences work on the Project, shall post a copy of the Notice of Commencement on the Project Site, and shall supply copies of the Notice of Commencement to Subcontractors and Suppliers upon request, all in strict accordance with O.C.G.A Section 36-91-72. Construction Manager shall provide Owner with a file-stamped copy of said Notice of Commencement.

6.3.2 Construction Manager shall promptly respond to any person who makes a written request of the Construction Manager, Owner or an agent of Owner for a copy of the Notice of Commencement, by sending the requestor a copy of the Notice of Commencement within ten (10) days of the date on which the request was received by Owner, Owner's agent or Construction Manager. Owner shall promptly provide Construction Manager with any written requests that it receives for copies of the Notice of Commencement, and it shall instruct its agents to do the same. Construction Manager shall maintain records regarding all requests received and responses sent, and shall provide Owner with copies of these records sent, and shall provide Owner with copies of these records at the completion of the Project, or upon request. Construction Manager shall send copies of the Notice of Commencement to all requestors by certified mail, return receipt requested.

6.3.3 Construction Manager shall maintain records of each Notice to Contractor upon its receipt.

6.3.4 Construction Manager agrees to perform all of its duties with respect to Notices of Commencement and Notices to Contractor in accordance with all applicable laws.

ARTICLE 7

CONTRACT TIME

7.1 The Work to be performed under this Agreement shall be commenced upon the execution of this Agreement by all parties hereto. The Work on the Project shall be Substantially Completed by the date indicated in Article Two of Amendment No. 1.

7.2 Time is of the essence as to Construction Manager's obligations under the Contract Documents, including but not limited to the obligation to deliver the Project Substantially Complete by the applicable Substantial Completion Date (as such date may be extended by Change Order for Permissible Extensions). Except as otherwise provided herein, failure to Substantially Complete all of the Work by the Substantial Completion Date shall entitle Owner to recover Substantial Completion Liquidated Damages, as more fully set forth in Article 13.

7.3 The Date for Substantial Completion of the Project shall be extended by Change Order in the event of a Permissible Extension; provided, however, as a condition precedent to obtaining a Change Order extending the Date for Substantial Completion of the Project, Construction Manager shall provide Notice to Owner of the causes of the delay within fourteen (14) days of the first occurrence of the event or circumstance giving rise to the delay, and satisfy the requirements for a Change Order extending the Date of Substantial Completion.

7.4 Upon receipt of a Notice requesting an extension of time for any cause, Owner shall review the facts in light of this Agreement. If the facts warrant such action and if the requirements for a Change Order are met, the Substantial Completion Date, Final Completion Date, or both, shall be extended by Change Order to the extent Owner determines the delay to give rise to a Permissible Extension.

7.5 An extension of time under Paragraph 7.4 shall be Construction Manager's exclusive remedy in the event that Construction Manager is delayed at any time in the commencement, prosecution or completion of the Work or is delayed, interfered with, impacted, obstructed or hindered by any act, neglect, interference, or default of Owner, Architect, or by any employee of either, or by any separate contractor employed by Owner, or by any cause beyond the control of Construction Manager. Construction Manager expressly agrees not to make, and hereby waives, any Claim for damages or an increase in the GMP on account of any delay, interference, impact, obstruction or hindrance of any kind whatsoever, except such costs that are direct cost of the Work including all fees, insurances and bonds.

ARTICLE 8

PRECONSTRUCTION SERVICES FEE

8.1 Upon and at the time of execution by Construction Manager and Owner of Amendment No. 1, Owner shall pay to Construction Manager a Preconstruction Services Fee equal to \$20,000.00. Payment to the Construction Manager of the Preconstruction Services Fee shall be compensation in full for all services and materials performed or provided, and all costs and expenses incurred, by Construction Manager prior to the date of the complete execution by the parties thereto of Amendment No. 1. Construction Manager shall not be entitled to include, in the Cost of the Work, any cost or expense incurred prior to the date of the complete execution of Amendment No. 1 by the parties thereto.

8.2 If Owner determines that Owner and Construction Manager cannot reach an agreement on the terms and conditions of Amendment No. 1, then Owner shall be entitled to terminate this Agreement for its convenience, and Owner shall not be required to pay Construction Manager the Preconstruction Services Fee, or any amount whatsoever, for any costs incurred or services or materials provided by Construction Manager.

ARTICLE 9

GUARANTEED MAXIMUM PRICE, GUARANTEED MAXIMUM CONSTRUCTION MANAGER PERSONNEL COST, AND CONSTRUCTION MANAGER'S FEE

9.1 When the Drawings and Specifications are sufficiently complete, and Owner requests same, Construction Manager shall propose a Guaranteed Maximum Price, which shall be the sum of the estimated Cost of the Work and the Construction Manager's Fee. As the Drawings and Specifications may not be finished at the time the Guaranteed Maximum Price proposal is prepared, the Guaranteed Maximum Price shall include any costs attributable to further development of the Drawings and Specifications by the Architect so long as such development is consistent with the Drawings and Specifications identified in Exhibit IV to Amendment No. 1 or reasonably inferable therefrom. Such further development does not include such things as possible changes in scope, systems, kinds and quality of materials, finishes or equipment, which shall be stated as Alternate Prices in Exhibit III to Amendment No. 1 and, if required, shall be incorporated by Change Order. The estimated Cost of the Work shall include a separate line item for the Construction Manager's contingency. The Construction Manager's contingency is a sum established by the Construction Manager for the Construction Manager's use, to cover costs arising from further development of the Drawings and Specifications as contemplated by this Paragraph 9.1 and other costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order.

9.2 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include:

- .1 A list of the Drawings and Specifications, including all addenda thereto, which were used in preparation of the Guaranteed Maximum Price proposal.

- .2 A list of allowances and a statement of their basis.
- .3 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.
- .4 The proposed Guaranteed Maximum Price, including a statement of the Construction Manager's Fee and the estimated cost organized by trade categories, allowances, contingency, and other items that comprise the Guaranteed Maximum Price.
- .5 The Date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based, and a schedule of the Construction Documents issuance dates upon which the date of Substantial Completion is based.
- .6 An amount identified as the "Guaranteed Maximum Construction Manager Personnel Cost", which shall be the maximum total amount that Construction Manager will be permitted to include in the Cost of the Work for all costs described in Paragraph 10.2.1 of this Agreement.

9.3 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. In the event that the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both. Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal and issuance of a Notice to Proceed, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as the Owner may specifically authorize by written Notice.

9.4 Upon Acceptance by the Owner of the Guaranteed Maximum Price proposal and execution by the Owner of Amendment No. 1, Amendment No. 1 shall be incorporated by reference in the Agreement and: (1) the amount set forth for the Guaranteed Maximum Price in Amendment No. 1 shall become the "Guaranteed Maximum Price" or "GMP" for all purposes under the Agreement; and (2) the amount set forth for the Guaranteed Maximum Construction Manager Personnel Cost in Amendment No. 1 shall become the "Guaranteed Maximum Construction Manager Personnel Cost" for all purposes under the Agreement. The Guaranteed Maximum Price and the Guaranteed Maximum Construction Manager Personnel Cost shall not be subject to increase or adjustment except in accordance with Article 12 of this Agreement.

9.5 The Owner shall authorize and cause the Architect to revise the Drawings and Specifications to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in Amendment No. 1. Such revised Drawings and Specifications shall be furnished to the Construction Manager in accordance with schedules agreed to by the Owner, Architect and Construction Manager. The Construction Manager shall promptly notify the Architect and Owner if such revised Drawings and Specifications are inconsistent with the agreed-upon assumptions and clarifications.

9.6 Subject only to the Allowances as set forth in Exhibit No. III attached to Amendment No. 1, and to Change Orders in accordance with Article 12, Construction Manager guarantees that (1) the sum of the Cost of the Work and Construction Manager's Fee shall not exceed the Guaranteed Maximum Price, and (2) the sum of all costs included in the Cost of the Work under Paragraph 10.2.1 shall not exceed the Guaranteed Maximum Construction Manager Personnel Cost.

9.7 By submitting its Guaranteed Maximum Price proposal, Construction Manager agrees and warrants, as of the date of submission of the Guaranteed Maximum Price proposal, that the Drawings and Specifications are sufficiently complete to allow Construction Manager to calculate and to commit to a binding GMP and Guaranteed Maximum Construction Manager Personnel Cost, and that the GMP and the Guaranteed Maximum Construction Manager Personnel Cost shall not be subject to adjustment except by Change Order in accordance with Article 12.

9.8 By submitting its Guaranteed Maximum Price proposal, Construction Manager agrees and warrants, as of the date of submission of the Guaranteed Maximum Price proposal, that it has inspected the Site and the location or

locations of the Work, has examined all Contract Documents, all conditions affecting the Work, all facilities upon which the Work is in any way dependent and all available engineering or geotechnical reports. Based on such inspection and examination, Construction Manager agrees, as of the date of submission of the Guaranteed Maximum Price proposal, that the proposed GMP (including the proposed Guaranteed Maximum Construction Manager Personnel Cost) is just and reasonable compensation for all of the Work, including all foreseen or foreseeable risks, hazards and difficulties in connection therewith. Notwithstanding the foregoing, should concealed conditions be encountered below the surface of the ground which are unknown and unforeseeable by Construction Manager at the time of execution of Amendment No. 1, the GMP and, if necessary, the Substantial and Final Completion Dates shall be equitably adjusted by Change Order issued with mutual agreement of Owner and Construction Manager; provided, however, that as a condition precedent to the issuance of such a Change Order, Construction Manager shall submit a Claim to Owner in accordance with Article 17 within fourteen (14) days after Construction Manager first observes, or with the exercise of reasonable diligence should have observed, any such condition; and provided, further, that the GMP and Substantial and Final Completion Dates shall be adjusted only to the extent such condition differs materially from those described or referred to or otherwise indicated in the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents and would not have been foreseen, as of the date of execution of Amendment No. 1, by a construction manager having Construction Manager's experience and expertise. Any such adjustments to the GMP or the Substantial or Final Completion Dates must be made by Change Order in accordance with Article 12.

9.9 Exhibit III attached to Amendment No. 1 shall specify the Unit Prices of materials or services to be included in Allowances, and the quantity of such materials or services included in the GMP. Should the actual quantity of such materials or services provided be more or less than the Allowance, the GMP shall be adjusted accordingly by Change Order in accordance with Article 12.

9.10 For Work performed under the Agreement, Owner shall pay to Construction Manager, as full compensation for Construction Manager's services performed subsequent to the date of complete execution of Amendment No. 1 by the parties thereto, a fee in an amount equal to Six percent (**6 %**) of the Cost of the Work stated in Amendment No. 1 to the Agreement (the "Construction Manager's Fee"). The amount of Construction Manager's Fee shall be calculated at the time of execution of Amendment No. 1, and shall be set forth in Amendment No. 1 as a lump sum amount. The costs to Construction Manager that are to be covered by Construction Manager's Fee include, but are not limited to, salaries or other compensation of Construction Manager's employees in its principal or branch offices, the general operating expenses of Construction Manager's principal or branch offices, Construction Manager's capital expenses including interest on Construction Manager's capital employed for the Project, all overhead and profit, and all amounts not specifically identified as Costs of the Work under Paragraph 10.2. The Construction Manager's Fee shall not be increased or decreased except in accordance with Paragraph 12.3.7 of this Agreement.

9.11 In the event that the sum of the Cost of the Work plus the Construction Manager's Fee shall be less than the GMP at Final Completion of all Work, the difference shall be deemed savings and shall accrue to the Owner.

9.12 Construction Manager shall be paid its Construction Manager's Fee, less retainage, in monthly progress payments as provided in Paragraph 11.1.4 of this Agreement. Each monthly progress payment shall be calculated by multiplying the total Construction Manager's Fee times the ratio the Cost of the Work incurred bears to the total estimated Cost of the Work included in the Guaranteed Maximum Price, as adjusted by Change Order.

ARTICLE 10

COST OF THE WORK

10.1 Definition. The term Cost of the Work means actual direct costs necessarily incurred for construction of the Project and includes only the items set forth below in Paragraph 10.2. Construction Manager shall be solely

responsible for, and shall pay directly, all Cost of the Work and other costs and expenses incurred in connection with the Project. Owner agrees to reimburse Construction Manager for the Cost of the Work as defined in this Article, subject to the Guaranteed Maximum Price and the Guaranteed Maximum Construction Manager Personnel Cost. Such reimbursement shall be in addition to the Construction Manager's Fee. Except as otherwise provided in Paragraph 10.2, all Cost of the Work shall be billed to Owner at Construction Manager's actual direct cost without the application of any load or multiplier and without any markup for any profit or indirect costs not expressly allowed in Paragraph 10.2.

10.2 Items Included in Cost of the Work. The Cost of the Work shall include only the following, to the extent that same are necessarily incurred for construction of the Project and are not excluded under Paragraph 10.3:

10.2.1 Subject to the Guaranteed Maximum Construction Manager Personnel Cost, those wages, salaries and employee benefits paid by Construction Manager to or for the benefit of its field organization stationed at the Project site, for such part of their time as such persons are engaged in performing the Work. Construction Manager's field organization shall not include any executives above the level of on-site project superintendent. The Cost of the Work shall not include any costs which exceed the prevailing local scale for similarly skilled employees and workmen. Salaries for specialized employees of Construction Manager or persons who are ordinarily stationed in Construction Manager's principal or branch offices but are temporarily stationed at the Project site shall be subject to Owner's prior Approval.

10.2.2 Payments required under Subcontracts and purchase orders entered into by Construction Manager pursuant to the terms and provisions of the Contract Documents; subject, however, to Owner's rights with respect to retainage provided for in each such Subcontract and purchase order. Any payments made to any Subcontractor for items that are included in Paragraph 10.2.1 shall be subject to the Guaranteed Maximum Construction Manager Personnel Cost.

10.2.3 The cost to Construction Manager for rental, handling and transportation, maintenance, normal upkeep and repair of tools, machinery, trucks and equipment (including shores, panel forms and scaffolding) rented by Construction Manager from others. Equipment rented by Construction Manager shall be at rates that shall not exceed the average prevailing local equipment rental rates. No additional charge for wear and tear, depreciation, general overhauling or replacing of defective rental equipment or components shall be included in the Cost of the Work. Rental or purchase of such equipment on long-term contracts must be Approved by Owner. The total rental charges shall not exceed the replacement cost of any item so rented, such replacement cost to be determined by the depreciated value of the equipment at the time it is placed in use at the Project. All rented power tools, equipment and other rented devices shall be removed from the Project Site and the rental terminated as soon as possible by Construction Manager so as to reduce the rental cost to the minimum amount consistent with the best interests of Owner in the timely and proper completion of the Work. The costs of equipment rented for use in connection with more than one project site during one rental term shall be apportioned among the various projects. This apportionment requirement shall also apply with respect to all equipment of any kind owned by Construction Manager or purchased by Construction Manager for use in connection with more than one project site simultaneously. Construction Manager may, with Owner's prior Approval, enter into lease-purchase arrangements with respect to equipment procured for the Work, and Construction Manager shall, upon completion of the Work, credit to the account of Owner the depreciated value of such equipment.

10.2.4 The cost for all special tools, machinery, trucks and equipment purchased specifically for use in performing Construction Manager Work, subject in each case to Owner's prior Approval. All such special tools, machinery, trucks and equipment purchased by Construction Manager specifically for use in connection with the Project shall become the property of Owner following completion of the Work.

10.2.5 The lesser of fifty percent (50%) of the fair market value or the depreciated cost to Construction Manager for pre-owned special tools, machinery, trucks and equipment necessary for the Construction Manager Work and which have not been specifically purchased for use on the Project, subject in each case to Owner's prior Approval.

Construction Manager shall keep full, detailed and accurate records and accounts of all such pre-owned items and Construction Manager's use thereof in connection with the Project, all of which such records and accounts shall be preserved and made available to Owner and Owner's agents and representatives in accordance with this Agreement. Construction Manager may elect to retain ownership of same upon completion of the Work, in which case Construction Manager shall credit to the account of Owner the depreciated value thereof.

10.2.6 The cost to Construction Manager of furnishing the small appliances, equipment and accessories necessary for the Construction Manager Work, including the normal expense of sharpening and replacement of expendable items. Construction Manager at all times shall furnish an adequate quantity of all such tools, appliances and equipment required for the Work. Such tools, appliances and equipment shall remain the property of Construction Manager following completion of the Work.

10.2.7 The cost of expendable supplies, such as "safety first" supplies, bottled water, drinking cups, crayon, flagging, chalk lime and the like purchased, supplied and consumed for the Construction Manager Work; gasoline, oil and grease for operating Construction Manager's equipment; tie wire, welding rods and similar supplies consumed for the Construction Manager Work, excluding those items specifically required to be furnished by Construction Manager, at its expense.

10.2.8 The cost to Construction Manager of providing telephone services, drinking water, mockups, temporary lights, temporary heat, water, power and installation and removal of temporary services for utilities and the cost of sanitary facilities, scaffolds and temporary structures, including field offices and storage buildings on the Site necessary for conducting the Work, less any sums received by Construction Manager for salvage derived from such structures.

10.2.9 The cost of temporary fences, barricades and any temporary construction necessary for the protection of the public and the cost of job signs as may be directed by Owner.

10.2.10 Except as provided in Paragraph 10.3, the cost of permits, fees, business licenses and other charges specifically connected with the Project required by any governmental authority having jurisdiction over the Work, including gross receipts tax or similar taxes imposed by other jurisdictions.

10.2.11 The cost to Construction Manager for royalties and license fees required in connection with the Work, subject in each case to Owner's prior Approval.

10.2.12 Premiums for insurance and bonds required by Owner in connection with the Work and paid for by Construction Manager. All rebates and refunds when paid to Construction Manager in connection with such premiums shall be reimbursed to Owner.

10.2.13 Expenses incurred by Construction Manager in the protection of adjoining property.

10.2.14 Overnight courier charges and telecopier charges necessary for communication with Construction Manager's main office and with Owner, Architect, and Subcontractors.

10.2.15 Expenses paid or incurred for purchase and rental of office furniture, office equipment, stationery, postage and office supplies required in connection with the field office maintained by Construction Manager at the Site.

10.2.16 Reproduction costs for a reasonable number of copies of the Construction Documents.

10.2.17 Consulting fees for consulting engineers retained by Construction Manager with Owner's prior Approval in connection with the Work.

10.2.18 Sales, use, gross receipts or similar taxes related to the Project, imposed by any governmental authority, and for which Construction Manager is liable.

10.3 Items Not Included in the Cost of the Work. Notwithstanding any provision of Paragraph 10.2, the Cost of the Work shall not include any costs not necessarily incurred for construction of the Project, or any part of any of the following:

10.3.1 Salaries or other compensation of Construction Manager's officers, executives or other supervisory personnel at Construction Manager's principal office and branch offices, except as Approved in advance by Owner in accordance with Paragraph 10.2.1.

10.3.2 Expenses of Construction Manager in connection with the maintenance and operation of its main office and any branch offices of Construction Manager other than the field office at the Site of the Project.

10.3.3 Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work.

10.3.4 Except as specifically provided in Paragraph 10.2, rental costs of machinery and equipment.

10.3.5 Profit, overhead or general expenses of any kind, including main office supervision of Work performed by Subcontractors, except as may be expressly included in Paragraph 10.2.

10.3.6 Costs due to the negligence of Construction Manager, any Subcontractor, anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including costs incurred for the correction of defective or nonconforming Work, disposal of materials and equipment wrongly supplied, or correcting any damage to the Project.

10.3.7 Any costs and expenses (including those specified in Paragraph 10.2) which, when added to all Costs of the Work and the Construction Manager's Fee, exceed the Guaranteed Maximum Price.

10.3.8 Payments made by Construction Manager to its employees or personnel on account of merit bonuses.

10.3.9 Costs and expenses of supervision and administration of progress and cost control by executives above the level of on-site project superintendent.

10.3.10 Costs related to general accounting, auditing and billing in any way connected with the Project, including the payment of labor, taxes and insurance for any persons performing such functions.

10.3.11 Costs related to supervision of insurance and taxation matters.

10.3.12 Expenses associated with Construction Manager's main and branch office management of the Work except, with Owner's Approval, designated special services directly related to the conduct of the Work.

10.3.13 Except with Owner's Approval, travel expenses of Construction Manager's officers and executives and travel expenses and relocation costs of Construction Manager's personnel involved in the Project.

10.3.14 Expenses paid or incurred for purchase or rental of office equipment, stationery, stamps and office supplies of any kind or nature whatsoever for main and branch offices.

10.3.15 Costs of removal, repair or replacement of materials, equipment and workmanship which are required to correct any part of the Work resulting from the negligence of Construction Manager or any Subcontractors, or the

agents or employees of any of them, including any costs, expenses, losses and damage caused to the Project, the property of Owner, the public or adjacent properties.

10.3.16 Costs of any business licenses not specifically required of Construction Manager for this Project and dues, assessments and contributions paid or payable to Construction Manager's technical or trade associations, including but not limited to AGC fees.

10.3.17 Taxes assessed against property and equipment of Construction Manager which is not to be incorporated into the Project; taxes on gross income, except gross receipts tax; profit and net income of Construction Manager; and interest on money borrowed or furnished by Construction Manager.

10.3.18 Costs incurred by Construction Manager in violation of any term, provision, or agreement set forth in the Contract Documents.

10.3.19 Any cost or expense not specifically and expressly included among the items described in Paragraph 10.2 herein.

10.4 For all Work performed:

10.4.1 Construction Manager agrees that all amounts paid by Construction Manager for services and materials included in the Work shall be at rates which are not higher than standard rates paid within the local business area of the Project, unless otherwise Approved in advance by Owner.

10.4.2 Under no circumstances whatsoever shall Construction Manager be entitled to receive more than the Guaranteed Maximum Price, as the same shall be adjusted by Change Order in accordance with Article 12. If the actual Cost of the Work plus the Construction Manager's Fee exceeds the Guaranteed Maximum Price, as adjusted by Change Order, the excess cost shall be borne solely by Construction Manager and Owner shall have no liability or responsibility of any kind or nature with respect thereto and Construction Manager shall release, indemnify, defend and hold harmless Owner from any claims, loss, damages, or demands in connection therewith.

10.4.3 Under no circumstances whatsoever shall Construction Manager be entitled to receive more than the Guaranteed Maximum Construction Manager Personnel Cost for costs included in the Cost of the Work under Paragraph 10.2.1.

ARTICLE 11

PAYMENTS TO CONSTRUCTION MANAGER

11.1 Procedure. Payments shall be made by Owner to Construction Manager according to the following procedure:

11.1.1 On or before the twenty-fifth (25th) day of each month after Work has commenced, Construction Manager shall prepare and submit to Owner and Architect an Application for Payment in the form attached hereto as Exhibit "G," and including such back-up documentation as Owner may require, for the Cost of the Work completed and materials stored since the preceding pay period, along with the proportional amount of Construction Manager's Fee earned during the period.

11.1.2 By signing an Application for Payment, Construction Manager certifies and warrants to Owner that:

1. The portion of the Application for Payment seeking reimbursement for Costs of the Work includes only Costs of the Work properly made or incurred and necessary for the Project in accordance with the Contract Documents;

2. The amount set forth in the Application for Payment represents the amount due and payable for the Costs of the Work incurred and Construction Manager's Fee for the construction of the Project and such payment is not being requested in advance and is in accordance with the terms of this Agreement;

3. No part of the Costs of the Work included in the Application in question were included within an Application for Payment previously submitted to Owner;

4. All of the Costs of the Work paid to Construction Manager to the date thereof, including those sought in the Application in question, are costs incurred under Paragraph 10.2 for the construction of the Project;

5. Construction Manager has no notice of any vendor's, suppliers' or other similar liens or rights to liens, chattel mortgages or conditional sales contracts pertaining to the Work covered by the subject Application for Payment;

6. The Construction Manager has supervised and inspected the Work and to the best of Construction Manager's knowledge, and to the extent the Application for Payment seeks reimbursement for costs incurred for labor, services, material, supplies or equipment in connection with the construction of the Project, such labor and services have been properly performed in good and workmanlike manner in accordance with the Contract Documents and such material, supplies and equipment have actually been used in or about the construction, or are stored on or off Site and for that purpose, in each case in conformity with the Contract Documents;

7. That Construction Manager waives all claims against Owner for extension of the Substantial Completion Date or Final Completion Date, or for adjustments to the Guaranteed Maximum Price based on events or circumstances existing or occurring before the date of the Application for Payment in question, except as specifically stated in the Application for Payment or in a Notice given in accordance with this Agreement.

11.1.3 Provided a proper Application for Payment is received by the Owner not less than the twenty-fifth day of a month, by the tenth (10th) day of the following month Owner shall (1) notify Construction Manager in writing of any reasons for withholding payment of all or any part of same; and (2) pay Construction Manager any undisputed amount requested in the Application for Payment, including Construction Manager's Fee, less retainage as applicable. Progress payments of Construction Manager's Fee, less retainage, shall be paid on a monthly basis in an amount proportionate to the ratio of the Cost of the Work incurred during the preceding pay period to the total estimated Cost of the Work included in the GMP. Owner may withhold payments otherwise due Construction Manager on account of the grounds specified under Paragraph 11.10.1, breach or default under the Contract Documents, or any conduct or circumstances affording grounds for termination under Article 15.

11.1.4 Under no circumstances shall an Application for Payment constitute Notice of a Claim under Article 17. Should Owner fail to pay Construction Manager any amount that is due hereunder by the required payment date, Construction Manager shall provide Owner Notice of non-payment, and may immediately invoke the Disputes Clause.

11.1.5 Payments owed but unpaid by Owner to Construction Manager, or by Construction Manager to Owner, shall bear interest at one percent (1%) per month (12% per annum).

11.3 Retainage.

11.3.1 Ten percent (10%) of the amounts due by Construction Manager to its Subcontractors shall be held by Owner hereunder as retainage until the Work performed by each such Subcontractor is fifty percent (50%) complete, after which time the retainage on further payments to the Subcontractor by Owner and Construction Manager shall be five percent (5%), so long as Construction Manager withholds no more than five percent (5%) retainage from its payments to the Subcontractor and the manner of completion and progress of the Work under the Subcontract and this Agreement are satisfactory to Owner. Upon Acceptance of Substantial Completion, the retainage withheld pursuant to this Paragraph 11.3.1 shall be reduced to two and one-half percent (2.5%) of the total Cost of the Work incurred.

11.3.2 The retainage withheld as to each Subcontractor under Paragraph 11.3.1 shall, subject to Paragraph 12.5, be released only upon request for its release by Construction Manager and (i) Acceptance by Owner of the Work included in the Final Punch List for the Project worked on by said Subcontractor, (ii) release by Construction Manager of corresponding retainage to the Subcontractor, and (iii) certification by Owner and Architect that said Work is complete and satisfactory. Retainage may be withheld if such grounds exist for withholding payment under this Agreement.

11.3.3 Ten percent (10%) of the amounts due Construction Manager as progress payments on its Construction Manager's Fee under Article 9 shall be held by Owner hereunder as retainage, which retainage shall be subject to release, as provided herein, upon Acceptance by Owner of the Work included in the Final Punch List for the Project. The releasable retainage amount shall be paid to Construction Manager upon its request for same, and upon certification by Owner and Architect that said Work is complete and satisfactory, unless grounds exist for withholding payment on account of other breach or default by Construction Manager under this Agreement.

11.4 Substantial Completion.

11.4.1 When the Construction Manager believes that the Project is Substantially Complete, Construction Manager shall provide Owner a Notice to that effect, accompanied by a Certificate of Occupancy, Architect's Certificate, and Construction Manager's punch list. Owner shall furnish Construction Manager with a Notice stating whether Owner agrees that the Project is Substantially Complete and therefore is Accepted by Owner (and, if not, the reasons why the Project is not Substantially Complete), and irrespective of whether the Project is so Accepted, any additional items that Owner believes should be included in the punch list, which list shall then become the Final Punch List for the Project.

11.4.2 Upon receipt of the Final Punch List, Construction Manager shall promptly pursue the completion of the items on such Final Punch List. Within five (5) business days of Construction Manager's receipt of the Final Punch List, Owner and Construction Manager shall establish a schedule for the completion of each item and a process for verifying such completion. When established, Construction Manager shall complete each item within such schedule and shall cooperate fully in the verification process.

11.4.3 Good faith shall be required in Owner's determination of whether to Accept the Project, determinations of the work necessary to cause the Project to be Substantially Complete, and determinations of items that should be included on the Final Punch List for the Project. Upon Acceptance of the Project as Finally Complete, Construction Manager shall be issued a Notice evidencing same. Notwithstanding any provision contained herein, Construction Manager acknowledges that the ultimate decision to Accept or not Accept the Project rests with Owner. Any dispute regarding same shall be subject to the Disputes Clause.

11.4.4 Upon the Acceptance of Final Completion of the Project, and upon application by Construction Manager, Owner shall pay Construction Manager an amount equal to the entire unpaid balance of the Cost of the Work allocable to the Work performed on the Project, plus any retainage held pursuant to Paragraph 11.1.4, and less such

amount as Owner deems necessary to withhold or set aside to cover incomplete or improper Work, Liquidated Damages or Claims.

11.4.5 In the event that the Project is not Substantially Completed by the Substantial Completion Date (as extended by Change Order for Permissible Extensions), then Owner shall have the right to recover or withhold from Construction Manager the Substantial Completion Liquidated Damages calculated from the applicable Substantial Completion Date until the date Substantial Completion of the Project is Accepted by Owner.

11.4.6 Except as otherwise expressly provided herein, from and after the date that Owner has Accepted Substantial Completion of the Project, Owner shall bear all costs and expenses relating to the use, occupancy and operation of the Project, including all expenses for operation, utilities, maintenance and repairs. Charges for the consumption of utility services provided to the Project after Substantial Completion is Accepted shall be paid directly by Owner to the applicable utility provider.

11.5 Final Payment.

11.5.1 When the entire Project and all Final Punch List items are finally completed and accepted by Owner, Construction Manager shall submit to Owner a final written accounting showing the total Cost of the Work.

11.5.2 The accounting shall include all information and back-up documentation reasonably requested by Owner to verify the actual amount of all Costs of the Work incurred and paid by Construction Manager, and to determine that the Work is complete and that the Agreement is fully performed, including but not limited to the following:

- .1 All documents reasonably necessary to establish the actual Cost of the Work. Construction Manager shall be deemed to have waived any right to submit a Claim for any cost incurred as of the date the request for final payment is submitted and for which proper documentation was not retained or does not exist;
- .2 All documentation (in proper form) required to be submitted to Owner pursuant to any provision of this Agreement;
- .3 Such certificates and other documents as may be required to demonstrate that all payrolls, bills for materials and equipment, and other indebtedness and liabilities, connected with the Work or for which Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied;
- .4 Three (3) complete sets of marked-up Construction Documents showing actual locations of utilities and all changes and alterations made to the Project during construction;
- .5 A certificate evidencing that insurance, if any, required by the Contract Documents to remain in force after Final Payment is currently in effect and will not be canceled or allowed to expire without at least thirty (30) days' prior Notice to Owner;
- .6 A written statement that Construction Manager knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
- .7 Consent of surety to Final Payment; and
- .8 If reasonably required by Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of claims, security interests or encumbrances arising out of this Agreement.

11.5.3 Owner shall report to the Construction Manager any deficiencies in the Construction Manager's accounting, and the Construction Manager shall promptly provide to Owner any information reasonably necessary to make the accounting complete and reliable. Not later than thirty (30) days after receipt by Owner of the Construction Manager's final and complete accounting, Owner and Architect shall make an inspection of the Project to determine if it is Finally Complete. If the Owner and the Architect determine that the Work is finally complete and that the Contractor's accounting is complete and reliable, Architect shall issue a Certificate of Final Completion.

11.5.4 Upon Architect's issuance of a Certificate of Final Completion under Paragraph 11.5.3 and the Acceptance of Final Completion of the Project by Owner, Owner shall, upon application by Construction Manager, pay to Construction Manager all retainage and other amounts owed to Construction Manager for Costs of the Work under the Contract Documents, and any portion of the Construction Manager's Fee due but not yet paid to Construction Manager.

11.6 Payment by Owner shall not foreclose the right of Owner to examine the books and records of Construction Manager in accordance with the Contract Documents to determine the correctness and accuracy of any item. Owner's right to examine the books and records of Construction Manager under the Contract Documents shall continue for 1095 days from the date of Substantial Completion of the Project.

11.7 Construction Manager shall retain all invoices, checks and other records showing billing and payment for materials, equipment and labor going into the performance of the Work for a period of three (3) years following its receipt of Final Payment hereunder; shall maintain books of account with respect to the performance of the Work for a like period; and shall require its Subcontractors to maintain similar records for the same period of time. Construction Manager and its Subcontractors shall, at reasonable times and upon request, afford Owner access to the aforesaid books and records of account as they relate to the Work and determination of the cost thereof.

11.8. The periods of access and examination set forth in Paragraph 11.7 above for records relating to litigation or settlement of Claims arising from the performance of this Agreement shall continue until such litigation, settlement or Claims are finally resolved and concluded.

11.9 Neither the Acceptance of the Project nor the occupancy thereof shall be construed as a waiver of any requirement or right of Owner under this Agreement, or as otherwise prejudicing Owner with respect to any such requirement or right.

11.10 Prompt Pay Act.

11.10.1 Owner may withhold payment to Construction Manager in an amount deemed reasonably necessary by Owner, in the event of unsatisfactory job progress, breach by Construction Manager of the Agreement, defective construction which has not been remedied, disputed work, third party claims that have been filed or reasonable evidence that such claims will be filed, failure of Construction Manager or its subcontractor to make timely payment for labor, equipment and/or materials, damage caused by Construction Manager to Owner, other contractors or subcontractors, reasonable evidence that the Work cannot be completed for the unpaid balance of the GMP, retainage at rates specified within this contract, and any other grounds set forth within this Agreement.

11.10.2 In the event that Construction Manager brings a claim against Owner, its agent or employees under the Georgia Prompt Pay Act, O.C.G.A. 13-11-1, et seq, hereinafter referred to as the "Georgia PPA," Construction Manager shall not be entitled to recover its attorneys' fees, whether or not such claim is successful.

11.10.3 Construction Manager agrees to abide by the provisions of the Georgia PPA and to Hold Harmless Owner from and against any claims, losses, damages or liabilities arising from Construction Manager's failure to so abide. Aside from the foregoing obligation of Construction Manager, it is expressly understood and agreed by the parties that the provisions in this Agreement with respect to payment, withholding of payments, interest rates on late

payments, and recovery of attorneys' fees are specifically intended to supersede and replace those set forth in the Georgia PPA, and the provisions of the Georgia PPA shall not apply to this Agreement.

ARTICLE 12

CHANGES IN THE WORK

12.1 Changes.

12.1.1 Changes in the Work may be accomplished after execution of the Agreement, and without invalidating the Agreement, only by Change Order or Construction Change Directive in accordance with this Article 12, and subject to the limitations stated in this Article 12 and elsewhere in the Contract Documents.

12.1.2 Architect will issue a Request for Quotation (RFQ) for any change involving an adjustment to the GMP or the completion date for the Project. Construction Manager shall promptly provide Architect with a quotation, in sufficient detail for review, for the change described in the RFQ, including the anticipated increase or decrease in the Cost of the Work in at least the following detail:

1. Material quantities and unit costs;
2. Subcontractor and labor costs (identified with specific item or portion to be performed);
3. Equipment costs;
4. Miscellaneous costs included in the Cost of the Work;
5. Schedule impact, including the critical dates for receiving Owner data and authorization to proceed with the changed Work.

After review by Architect, Owner will Accept or reject the quotation and Architect will notify Construction Manager of Owner's decision. If Accepted by Owner, Architect will incorporate the RFQ in a Change Order or Construction Change Directive.

12.1.3 A Change Order shall be based upon agreement among Owner and Construction Manager and Architect; a Construction Change Directive may be issued by Owner and may or may not be agreed to by Construction Manager. All changes in the Work shall be performed under applicable provisions of the Contract Documents.

12.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to Owner or Construction Manager, the applicable unit prices shall be equitably adjusted.

12.2 Change Orders.

12.2.1 A Change Order is a written instrument prepared by Architect and signed by Owner and Construction Manager stating their agreement upon all of the following:

- .1 a change in the Work;
- .2 the amount of the adjustment in the GMP, if any; and

.3 the extent of the adjustment in the completion dates for the Project, if any.

12.2.2 Methods used in determining adjustments to the GMP shall be those listed in Subparagraph 12.3.3.

12.3 Construction Change Directives.

12.3.1 A Construction Change Directive is a written order prepared by Architect and signed by Owner, directing a change in the Work and stating a proposed basis for adjustment, if any, in the GMP or completion dates for the Project, or both. Owner may, by Construction Change Directive, order changes in the Work within the general scope of the Contract Documents consisting of additions, deletions or other revisions.

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

12.3.3 If the Construction Change Directive provides for an adjustment to the GMP, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 as provided in Subparagraph 12.3.6.

12.3.4 Upon receipt of a Construction Change Directive, Construction Manager shall promptly proceed with the change in the Work involved and advise Owner of Construction Manager's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the GMP or completion dates.

12.3.5 A Construction Change Directive signed by Construction Manager indicates the agreement of Construction Manager therewith, including adjustment in the GMP and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

12.3.6 If Construction Manager does not respond promptly or disagrees with the method for adjustment in the GMP, the method of adjustment shall be determined by Architect on the basis of reasonable costs and savings of those performing the Work attributable to the change. In making such adjustments the following terms and conditions shall apply:

.1 If any change requires a combination of additional work and/or work to be deleted or reduced, then Architect shall total the Costs of the Work separately for each category of additional and deleted or reduced work, without allowance for profit or overhead. The costs in each category shall then be compared, and if the comparison reveals a net increase in the total Cost of the Work, then the Construction Manager's Fee shall be increased in accordance with Subparagraph 12.3.7. If the comparison reveals a net decrease in the total Cost of the Work, then Owner shall be entitled to a decrease in the GMP in the amount of such net decrease and the Construction Manager's Fee shall remain unchanged.

.2 In all cases under this Subparagraph 12.3.6 and Subparagraph 12.3.3.3, Construction Manager shall keep and present, in such form as Owner may prescribe, an itemized accounting together with appropriate supporting data. In particular, Construction Manager shall supply detailed cost estimates.

.3 Unless otherwise provided in the Contract Documents, "costs" for the purposes of this Subparagraph 12.3.6 shall be defined to include only the Costs of the Work directly attributable to the change.

12.3.7 The amount of the increase in the Construction Manager's Fee, to which Construction Manager may be entitled pursuant to the provisions of Subparagraph 12.3.6, shall be five percent (5%) of the net increase in the Cost of the Work included in the Change Order or Construction Change Directive. The Change Order or Construction Change Directive shall specify the total increase in the GMP, based on the net increase in the Cost of the Work plus the increase in the Construction Manager's Fee. The Change Order or Construction Change directive shall also specify the increase, if any, in the Guaranteed Maximum Construction Manager's Personnel Cost.

ARTICLE 13

LIQUIDATED DAMAGES

13.1 The parties hereby agree that if Substantial Completion and Final Completion are not achieved within the time permitted under the Agreement, then , Construction Manager shall be liable to Owner for Liquidated Damages as more fully provided in this Article 13.

13.2 The Liquidated Damages provided for in this Article are neither a penalty nor a forfeiture, and are hereby fixed and agreed upon in recognition of the impracticability or impossibility of ascertaining the amount of damages that will be sustained by Owner as a result of a delay in obtaining Substantial Completion or Final Completion of the Project by the required date, and to quantify or approximate, as best as possible, that amount necessary to compensate Owner for its inability to use or otherwise have available the Work, or any portion thereof, for its intended purpose by the specific dates.

13.3 Liquidated Damages assessed and collected pursuant to this Article 13 shall constitute full and complete compensation to Owner, and Owner's exclusive remedy, for any damages sustained as a result of delayed Substantial Completion or Final Completion of the Project.

13.4 In the event that the Project is not Substantially Complete by the applicable Substantial Completion Date, as extended by Change Order for applicable Permissible Extensions, Owner shall be entitled to withhold or receive from Construction Manager Substantial Completion Liquidated Damages calculated from the Substantial Completion Date (as extended by all applicable Permissible Extensions) until Substantial Completion of the Project is Accepted. The per-day rate for Substantial Completion Liquidated Damages is set forth in Exhibit "D" attached hereto.

13.5 In the event that the Project is not Finally Complete by the applicable Final Completion Date, as extended by applicable Permissible Extensions, Owner shall be entitled to withhold or receive from Construction Manager Final Completion Liquidated Damages calculated from the Final Completion Date (as extended by all applicable Permissible Extensions) until Substantial Completion of the Project is Accepted. The per-day rate for Final Completion Liquidated Damages is set forth in Exhibit "D" attached hereto.

13.6 In the event Construction Manager disputes its liability for Liquidated Damages, the matter shall be resolved as provided in the Disputes Clause of this Agreement.

ARTICLE 14

INDEMNITY AND EXCULPATION

14.1 Indemnity. Construction Manager shall defend, indemnify and Hold Harmless Owner, Architect and their agents and employees from and against all claims, disputes, damages, losses, costs and expenses (including attorneys' fees, litigation expenses and expert fees) arising out of, or resulting from, Construction Manager's negligent acts or omissions or breach of its obligations under the Contract Documents. Construction Manager shall further assume all liability for and shall indemnify and Hold Harmless Owner, Architect, and their employees from all damages and liability for injury to any person or persons, and injury to or destruction of any property, including the loss of use thereof, by reason of an accident or occurrence arising from operations under the Agreement, whether such operations be by Construction Manager or by any Subcontractor or by anyone directly or indirectly employed by either one of them, occurring on or about the Site, or the ways and means immediately adjacent, before the Project is Accepted by Owner, and shall also assume the liability for injury and or damages to adjacent or neighboring property by reason of Work done under the Agreement.

14.2 Exculpation. Without waiving any of their rights under this Agreement, Construction Manager and Owner agree that the officers, principals, agents, trustees, directors, partners, shareholders, representatives, joint venturers, or employees of Construction Manager, Owner, and Architect shall have no personal liability with respect to any of the obligations set forth in this Agreement.

ARTICLE 15

TERMINATION

15.1 Termination by Construction Manager. If the Project, in whole or substantial part, is stopped for a period of sixty (60) consecutive days under an order of any Court or other public authority having jurisdiction, or as the direct result of an act of Owner that is not authorized by the Contract Documents and is not due to any act of fault of Construction Manager, or due to a declaration of a national emergency or other cause beyond the Construction Manager's control that makes materials unavailable, then Construction Manager may, upon seven (7) days' Notice to Owner, terminate this Agreement and shall be entitled to payment by Owner of all unpaid Costs of the Work due under Article 10, progress payments on Construction Manager's Fee to date, and Construction Manager's reasonable direct costs of demobilization.

15.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause.

15.2.1 If Construction Manager fails to perform any of its obligations under the Contract Documents, Owner may, after seven (7) days' Notice, during which period Construction Manager fails to undertake good faith and diligent efforts to perform such obligation, make good such deficiencies. The Guaranteed Maximum Price shall be reduced by the cost to Owner of making good such deficiencies, including but not limited to the cost of any consultant or professional services associated therewith.

15.2.2 If Construction Manager is adjudged a bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if it persistently or repeatedly refuses or fails, to supply enough properly skilled workmen or proper materials, or if it fails to make proper payment to Subcontractors or Suppliers for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial breach of a provision of the Contract Documents, then Owner may, without prejudice to any right or remedy and after giving Construction Manager and its surety, seven (7) days' Notice, during which period Construction Manager fails to undertake good faith and diligent efforts to cure the breach, terminate this Agreement and the Contract Documents, and take

possession of the Site and of all materials, equipment, tools, construction equipment and machinery thereon owned by Construction Manager and may finish the Work by whatever reasonable method it may deem expedient. In such case, Construction Manager shall not be entitled to receive any further payment until the Work is finished. All warranties of Construction Manager and its Subcontractors and Suppliers shall survive such termination.

15.2.3 In the event of termination under Paragraph 15.2.2, and upon completion of all of the Work, Construction Manager shall pay Owner the amount, if any, by which the total cost of completing the Work, plus any Liquidated Damages recoverable by Owner under Article 13 for delays in completion, together with amounts previously paid to Construction Manager, exceed the GMP. If there is no such excess, Owner shall pay Construction Manager any portion of the Cost of the Work and Construction Manager's Fee which has not previously been paid and which was owed to Construction Manager at the time of termination, so long as the total amount paid by Owner for completing the Work, including all costs incurred by Owner as a result of any delay in completion and all amounts paid to Construction Manager, does not exceed the GMP.

15.3 Termination for Convenience.

15.3.1 Owner may terminate the Agreement for convenience at any time upon written notice to Construction Manager. In the event of a termination for convenience, Construction Manager shall take immediate steps to terminate the Work as quickly and effectively as possible and shall terminate all commitments to third parties unless otherwise instructed by Owner. Provided that no damages are due to Owner for Construction Manager's failure to perform in accordance with the Contract Documents, Owner shall pay Construction Manager for all Costs of the Work incurred to the date of termination, including that portion of Construction Manager's Fee allocable to the Cost of the Work incurred, and for any other proven, direct loss sustained upon any materials, equipment, tools, subcontracts, purchase orders, construction equipment and machinery, and Owner shall have no further liability to Construction Manager for such termination.

15.3.2 If Owner terminates the Agreement for cause under Paragraph 15.2.2 and it is later determined that Owner did not have grounds to do so, the termination will be treated as a termination for convenience under the terms of this Paragraph 15.3.

ARTICLE 16

SEPARATE CONTRACTORS

16.1 Owner reserves the right to employ separate contractors at the Site to perform work not included in the Construction Documents. In such case, Owner shall instruct such separate contractors not to impede, delay, or cause any conflict with the Work of Construction Manager. Construction Manager shall afford such separate contractors reasonable opportunity for the introduction, protection and storage of material and equipment at the Site and the execution of their work, and shall properly connect and coordinate its Work with theirs.

16.2 Construction Manager has no responsibility hereunder to inspect or certify the suitability or correctness of any work performed by separate contractors of Owner. Construction Manager will have no liability for Owner's separate contractors' material, equipment, work-in-place or stored materials. Such mediation shall take place in Lowndes County, Georgia.

ARTICLE 17

DISPUTE RESOLUTION

17.1 This Article 17 is intended to govern all disputes between Owner and Construction Manager. The parties agree that any civil action seeking to enforce rights under the Contract Documents shall be initiated solely in the Superior Court of Lowndes County, Georgia, and Construction Manager expressly waives any right to assert diversity or other jurisdiction in federal court, or to assert jurisdiction in any other state court or in any other state.

17.2 Construction Manager and Owner agree that, before any dispute hereunder becomes a Claim which is subject to the terms of this Article 17, they shall cooperate in good faith to resolve the dispute and utilize, to the extent practical under the circumstances (including the necessity of an expedited decision on the matter in question), to use alternative means of dispute resolution.

17.3 "Claim" as used in this Article have the meaning provided in Paragraph 1.1.8. Only Claims made in writing by Notice in accordance with Paragraph 19.9 shall be valid; all other Claims of any nature are expressly waived.

17.4 Notice of a Claim by Construction Manager must be delivered to Owner within twenty-one (21) days after Construction Manager first observes, or through the exercise of reasonable diligence could have observed, an occurrence circumstance, or condition giving rise to such Claim. Claims must be submitted in writing, even if the Claim is allegedly based on a previous oral or written statement by Owner. An additional Claim made after the initial Claim has been implemented by a Change Order will not be considered unless submitted in a timely manner. Any Claim not made in strict accordance with the terms of this Article 17 shall be deemed waived by Construction Manager. Construction Manager acknowledges and agrees that Owner can only waive the requirements of this Article 17 by Notice that specifically makes reference to this Paragraph 17.4 and that Construction Manager cannot rely on any oral statement or course of dealing to the contrary.

17.5 In connection with the submittal of a Claim, the parties agree to attempt to resolve the dispute utilizing the procedures set forth in this Article 17.

17.6 If a Claim by Construction Manager exceeds fifty thousand dollars (\$50,000.00), then Construction Manager shall submit with the Claim a certification that: the Claim is made in good faith; supporting data are accurate and complete to the best of Construction Manager's knowledge and belief; and the amount requested accurately reflects the adjustment Construction Manager believes should be authorized. The certification shall be executed by a senior official of Construction Manager in charge of the Project or an officer of general partner of Construction Manager having overall responsibility for the conduct of Construction Manager's affairs.

17.7 Duly appointed representatives of Construction Manager and Owner shall meet at least once in person to attempt to resolve any Claim. If the Claim is not resolved promptly, Owner may give such written instructions as are necessary for the proper performance by Construction Manager and to prevent delays pending settlement of the dispute. Construction Manager shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any Claim the party may have. If it is subsequently determined that instructions given pursuant to this Paragraph 17.7 were in error or at variance with the Contract Documents, the GMP shall be increased by the amount of the Cost of the Work incurred by Construction Manager in carrying out the portion of the Owner's instructions which was beyond the obligations of the Construction Manager under the Contract Documents.

17.8 If the Claim is not resolved by the representatives of Owner and Construction Manager within ten (10) days of a Notice by either requesting a meeting, then Construction Manager and Owner shall each designate a senior executive (with similar or equivalent organizational stature) who shall not be personally involved in the Project and who shall have no direct responsibility for the administration of this Agreement. Each designated senior executive

shall have the authority to settle or compromise the Claim conclusively. The senior executives shall meet at a mutually agreeable time and place within ten (10) days of the date of their appointment and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Claim.

17.9 If the Claim has not been resolved within ten (10) days of the date the senior executives first meet, then either party may request non-binding mediation of the Claim by providing the other party with Notice of the desire to mediate the dispute. Notice shall be given within ten (10) days of the date of the last meeting of the senior executives or the date last stated above, whichever shall last occur. Once such a mediation notice is issued by one or other of the parties, the mediation procedure shall be mandatory unless the parties agree in writing to waive mediation. A single mediator selected by the senior executives shall be appointed. In the event they are unable to agree upon an acceptable mediator within ten (10) days of the date the Notice of desire to mediate is received, either party may petition the American Arbitration Association (AAA) for the appointment of a mediator, and the mediation, including the selection of the mediator, shall proceed pursuant to the AAA's Construction Industry Mediation Rules. Such mediation shall take place in Lowndes County, Georgia.

17.10 Confidential information disclosed to a mediator by the parties or by witnesses in the course of any mediation shall not be divulged by the mediator except to the parties. All records, reports or other documents received by a mediator while serving in such capacity shall be confidential. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding any information disclosed in the proceeding, including: (i) views expressed or suggestions made by another party with respect to a possible settlement of the dispute; (ii) admissions made by another party in the course of the mediation proceedings; (iii) proposals made or views expressed by the Mediator; and (iv) the fact that another party had or had not indicated a willingness to accept a proposal for settlement made by the Mediator.

17.11 The expense of witnesses for any party to a mediation shall be paid by the party producing such witnesses. All expenses of the mediator, including traveling, fees and other expenses of the mediator, or the cost of any proofs, witnesses or experts produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.

17.12 Construction Manager and Owner shall proceed diligently with the performance of their obligations under this Agreement, pending final resolution of any Claim, dispute, litigation or appeal arising under this Agreement.

17.13 Nothing in this Article 17 shall preclude either party from seeking legal or equitable remedies, including preliminary injunctive relief or other preliminary equitable relief, if in its judgment such action is necessary to protect its rights hereunder.

ARTICLE 18

RESERVED

ARTICLE 19

MISCELLANEOUS PROVISIONS

19.1 Construction Manager shall not assign its interest, or any part thereof, in this Agreement without the prior written consent of Owner, which consent shall not unreasonably be withheld.

19.2 This Agreement shall be governed by the laws of the State of Georgia.

19.3 Construction Manager and Owner shall each designate in writing a representative who shall have full authority to act (other than for the receipt of notices which must be given as specified in Paragraph 19.9) in matters relating to this Agreement until Notice is given that such authority has been revoked. Construction Manager and Owner may each rely upon the written certification of the other as to the appointment of a designated representative or the revocation of such representative's authority.

19.4 This Agreement constitutes the entire and integrated agreement and understanding between the parties hereto with respect to the subject matter hereof, and, except as set forth herein, there are no other promises, understandings, agreements, representations or warranties, oral or written, expressed or implied between them. Except as otherwise expressly provided herein, this Agreement may not be changed, modified or terminated, in whole or in part, nor may any provision be waived, except by an instrument in writing signed by the party against whose interest the change, modification, termination or waiver is asserted.

19.5 The captions throughout this Agreement and the Table of Contents are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision or the scope or intent of this Agreement, nor in any way affect this Agreement.

19.6 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

19.7 Except as otherwise provided herein, each right and remedy provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement as now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise of any one or more of the rights or remedies provided for in this Agreement as now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise of any or all other rights or remedies provided for in this Agreement as now or hereafter existing at law or in equity or by statute or otherwise.

19.8 Time is of the essence with respect to Construction Manager's and Owner's obligations under this Agreement.

19.9 Any Notice under this Agreement shall be: (i) in writing; (ii) signed by an officer or duly authorized representative of the party making same; (iii) shall be delivered personally, sent by overnight courier service, or sent by certified or registered mail, postage prepaid, return receipt requested; (iv) shall be effective as of the date on which it is received or would have been received but for the refusal of the addressee to accept delivery; and (v) shall be addressed as follows:

OWNER: Board of Commissioners of Lowndes County
327 N. Ashley Street
Valdosta, GA 31601
Attention: County Manager

With a copy to: Walter G. Elliot
(which shall be for Elliott Blackburn PC
information only, 3016 N. Patterson St.
and shall not Valdosta GA 31602
constitute Notice)

CONSTRUCTION
MANAGER:

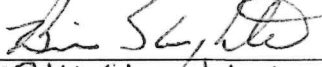
The persons and addresses to which notices should be given may be changed by Notice given in accordance with this Paragraph.

19.10 No failure by either party to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any such term, covenant, agreement, provision, condition or limitation of this Agreement, and no breach thereof shall be waived, altered or modified except by a written instrument. No waiver of one or more breaches shall affect or alter this Agreement; rather, each and every term, covenant, agreement, provision, condition and limitation of this Agreement shall continue in full force and effect with respect to any other breach hereof.

19.11 Unless this Agreement specifically authorizes a different standard, no party shall unreasonably withhold or delay its Approval of any matter contemplated hereby. If either party unreasonably withholds or delays an Approval under this Agreement, the other party shall have the right to invoke the Disputes Clause.

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

BOARD OF COMMISSIONERS OF LOWNDES COUNTY



BY: Bill Slaughter
ITS: Chairman

Allstate Construction Group/Cauthan Construction Company, Joint
Venture, LLC
BY: _____
Title: _____

CONSTRUCTION
MANAGER:

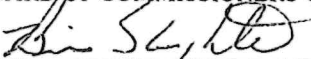
The persons and addresses to which notices should be given may be changed by Notice given in accordance with this Paragraph.

19.10 No failure by either party to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any such term, covenant, agreement, provision, condition or limitation of this Agreement, and no breach thereof shall be waived, altered or modified except by a written instrument. No waiver of one or more breaches shall affect or alter this Agreement; rather, each and every term, covenant, agreement, provision, condition and limitation of this Agreement shall continue in full force and effect with respect to any other breach hereof.

19.11 Unless this Agreement specifically authorizes a different standard, no party shall unreasonably withhold or delay its Approval of any matter contemplated hereby. If either party unreasonably withholds or delays an Approval under this Agreement, the other party shall have the right to invoke the Disputes Clause.


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

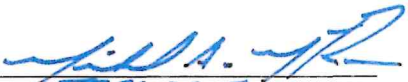
BOARD OF COMMISSIONERS OF LOWNDES COUNTY



BY: Bill Slaughter
ITS: Chairman

Allstate Construction Group/Cauthan Construction Company, Joint
Venture, LLC

BY: 
Title: Will Summer VP

BY: 
Title: PRESIDENT

Cauthan Construction Company, Inc.
Michael McRae

EXHIBIT "A"

Not Used

EXHIBIT "B"

Not Used

EXHIBIT "C"

Not Used

EXHIBIT "D"

LIQUIDATED DAMAGES

D.1 Substantial Completion Liquidated Damages. For each day that Substantial Completion is delayed beyond the scheduled Substantial Completion Date for the Project, Owner shall be entitled to withhold or recover from Construction Manager liquidated damages in the amount of One Thousand Dollars (\$1000.00) per day ("Substantial Completion Liquidated Damages").

D.2 Final Completion Liquidated Damages. The Final Punch List shall be completed within thirty (30) days after Substantial Completion of the Project. For each day that completion of the Final Punch List is delayed beyond the thirtieth (30th) day following Acceptance of Substantial Completion, Owner shall be entitled to withhold or recover from Construction Manager liquidated damages in the amount of Five Hundred Fifty Dollars (\$500.00) per day ("Final Completion Liquidated Damages").

EXHIBIT "E"

PAYMENT AND PERFORMANCE BONDS

Construction Manager shall provide payment and performance bonds in the form of AIA Document A312-1984.

EXHIBIT "F"

**AMENDMENT NO. 1 TO STANDARD AGREEMENT BETWEEN OWNER AND CONSTRUCTION
MANAGER (GEORGIA PUBLIC WORKS PROJECT):
COST-PLUS WITH A GUARANTEED MAXIMUM PRICE**

Pursuant to Article 9 of the Agreement dated November 22, 2023 between Board of Commissioners of Lowndes County ("Owner"), Allstate Construction Group / Cauthan Construction JV LLC ("Construction Manager") for A New Addition for the Lowndes County Jail in Valdosta, Georgia for the Lowndes County Board of Commissioners (the "Project"), the Owner and Construction Manager agree to this Amendment No. 1 and establish a Guaranteed Maximum Price, Guaranteed Maximum Construction Manager's Personnel Cost, and Contract Time for the Work as set forth below.

**ARTICLE ONE
CONSTRUCTION MANAGER'S FEE, GUARANTEED MAXIMUM PRICE AND GUARANTEED
MAXIMUM CONSTRUCTION MANAGER'S PERSONNEL COST**

- 1.1 The Construction Manager's Fee pursuant to Article 9 of the Agreement is hereby established to be Five Hundred Seven Thousand, Four Hundred Fifty Six Dollars (\$507,456.00).
- 1.2 The Guaranteed Maximum Construction Manager's Personnel Cost pursuant to Article 9 of the Agreement is hereby established to be Seven Hundred Thirty Thousand, Six Hundred Eighteen Dollars (\$730,618.00).
- 1.3 The Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 10 and the Construction Manager's Fee as defined in Article 9, is hereby established to be Eight Million, Nine Hundred Sixty Five Thousand, Fifty Three Dollars (\$8,965,053.00).
- 1.4 The Construction Manager's Fee, Guaranteed Construction Manager's Personnel Cost and the Guaranteed Maximum Price is for the performance of the Work in accordance with the Contract Documents listed and attached to this Amendment and marked Exhibits I through IV, which are incorporated herein and in the Agreement as follows:

- | | |
|-------------|---|
| Exhibit I | Completion Schedule, pages 1 through 1, dated May 22, 2024. |
| Exhibit II | Assumptions and clarifications made in preparing the Guaranteed Maximum Price, pages 1 through 3, dated May 22, 2024. |
| Exhibit III | Allowances, Alternate Prices, and Unit Prices, pages 1 through 1, dated May 22, 2024. |
| Exhibit IV | Drawings and Specifications on which the Guaranteed Maximum Price is based. |

**ARTICLE TWO
CONTRACT TIME**

- 2.1 The Substantial Completion Date is established by this Amendment to be: 18th day of July, 2025.
- 2.2 The Final Completion Date is established by this Amendment to be: 20th day of August, 2025.

This _____ day of _____, 2024.

OWNER

CONSTRUCTION MANAGER

Board of Commissioners of Lowndes County

Allstate Construction Group / Cauthan
Construction Co. Joint Venture LLC.

By: _____
Its: Chairman

By: _____
Its: _____

| Act ID | Description | Orig Dur | Rem Dur | Early Start | Early Finish | % | 2024 | | | | | | | | | | | | 2025 | | | | | | | | | | | | |
|------------------------|-------------|----------|---------|-------------|--------------|---|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|--|--|--|--|--|--|
| | | | | | | | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | | | | | | |
| Preconstruction | | | | | | | <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1000 Receive Bids & Develop GMP 10d 0 04MAR24 22MAR24 A 100</p> <p>1010 GMP to Owner 10d 0 25MAR24 29MAR24 A 100</p> <p>1020 Owner Approval 20d 10d 01APR24 A 04JUN24 50</p> <p>1030 Issue Subcontracts 20d 20d 05JUN24 02JUL24 0</p> <p>1040 Submittals 30d 30d 05JUN24 17JUL24 0</p> <p>1050 PEMB Shop Drawings 40d 40d 03JUL24 28AUG24 0</p> </div> <div style="width: 50%;"> <p>Receive Bids & Develop GMP</p> <p>GMP to Owner</p> <p>Owner Approval</p> <p>Issue Subcontracts</p> <p>Submittals</p> <p>PEMB Shop Drawings</p> </div> </div> | | | | | | | | | | | | | | | | | | | | | | | | |
| Addition | | | | | | | <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1075 Selective Demolition 15d 15d 03JUL24 24JUL24 0</p> <p>1080 Site Utilities Demolition 10d 10d 18JUL24 31JUL24 0</p> <p>1090 Clearing & Grubbing 10d 10d 01AUG24 14AUG24 0</p> <p>1100 Site Utilities 15d 15d 15AUG24 04SEP24 0</p> <p>1110 Building Pad 10d 10d 15AUG24 28AUG24 0</p> <p>1120 Form & Prep Slab/Foundations 10d 10d 29AUG24 11SEP24 0</p> <p>1130 MEP Slab Rough-in 15d 15d 12SEP24 02OCT24 0</p> <p>1150 CMU Stem Walls 5d 5d 12SEP24 18SEP24 0</p> <p>1140 Foundations and Slab on Grade 15d 15d 03OCT24 23OCT24 0</p> <p>1160 Slab on Grade 5d 5d 24OCT24 30OCT24 0</p> <p>1055 PEMB Fabrication & Delivery 60d 60d 31OCT24 24JAN25 0</p> <p>1170 CMU Walls 60d 60d 07NOV24 31JAN25 0</p> <p>1210 PEMB Erection 30d 30d 27JAN25 07MAR25 0</p> <p>1250 Steel Cells 10d 10d 27JAN25 07FEB25 0</p> <p>1190 Electrical Rough-in 25d 25d 10MAR25 11APR25 0</p> <p>1195 Plumbing Rough-in 30d 30d 10MAR25 18APR25 0</p> <p>1255 Steel Mezzanine Install 15d 15d 10MAR25 28MAR25 0</p> <p>1350 HVAC Install 30d 30d 10MAR25 18APR25 0</p> <p>1295 Security Fencing 15d 15d 07APR25 25APR25 0</p> <p>1260 Low Voltage System Install 30d 30d 14APR25 23MAY25 0</p> <p>1330 Electrical Trim-out 20d 20d 14APR25 09MAY25 0</p> <p>1220 Metal Framing/Gyp Assemblies 20d 20d 21APR25 16MAY25 0</p> <p>1270 MEP Connections for Steel Holding Cells 10d 10d 21APR25 02MAY25 0</p> <p>1300 Sodding/Landscaping 5d 5d 28APR25 02MAY25 0</p> <p>1280 Painting 30d 30d 19MAY25 27JUN25 0</p> <p>1351 Commissioning 10d 10d 02JUN25 13JUN25 0</p> <p>1290 Flooring 10d 10d 30JUN25 14JUL25 0</p> <p>1372 Final Cleaning 3d 3d 15JUL25 17JUL25 0</p> </div> <div style="width: 50%;"> <p>Selective Demolition</p> <p>Site Utilities Demolition</p> <p>Clearing & Grubbing</p> <p>Site Utilities</p> <p>Building Pad</p> <p>Form & Prep Slab/Foundations</p> <p>MEP Slab Rough-in</p> <p>CMU Stem Walls</p> <p>Foundations and Slab on Grade</p> <p>Slab on Grade</p> <p>PEMB Fabrication & Delivery</p> <p>CMU Walls</p> <p>PEMB Erector</p> <p>Steel Cells</p> <p>Electrical Rough-in</p> <p>Plumbing Rough-in</p> <p>Steel Mezzanine Install</p> <p>HVAC Install</p> <p>Security Fencing</p> <p>Low Voltage System Install</p> <p>Electrical Trim-out</p> <p>Metal Framing/Gyp Assemblies</p> <p>MEP Connections for Steel Holding Cells</p> <p>Sodding/Landscaping</p> <p>Painting</p> <p>Commissioning</p> <p>Flooring</p> <p>Final Cleaning</p> </div> </div> | | | | | | | | | | | | | | | | | | | | | | | | |
| Renovation | | | | | | | <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1221 Metal Framing/Gyp Assemblies 5d 5d 25JUL24 31JUL24 0</p> <p>1251 Door Installation 2d 2d 01AUG24 02AUG24 0</p> <p>1281 Painting 5d 5d 01AUG24 07AUG24 0</p> <p>1291 Flooring 5d 5d 08AUG24 14AUG24 0</p> </div> <div style="width: 50%;"> <p>Metal Framing/Gyp Assemblies</p> <p>Door Installation</p> <p>Painting</p> <p>Flooring</p> </div> </div> | | | | | | | | | | | | | | | | | | | | | | | | |
| Closeout | | | | | | | <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1382 Material Completion 1d 1d 18JUL25 18JUL25 0</p> <p>1352 OEM Manuals 10d 10d 21JUL25 01AUG25 0</p> <p>1362 Closeout Documents 10d 10d 04AUG25 15AUG25 0</p> <p>1392 Final Completion 1d 1d 20AUG25 20AUG25 0</p> </div> <div style="width: 50%;"> <p>Material Completion</p> <p>OEM Manuals</p> <p>Closeout Documents</p> <p>Final Completion</p> </div> </div> | | | | | | | | | | | | | | | | | | | | | | | | |

Start date 21MAR24
 Finish date 20AUG25
 Data date 22MAY24
 Run date 22MAY24
 Page number 1A
 © Primavera Systems, Inc.

Allstate/Cauthan JV
 Lowndes County Jail

- Early bar
- Progress bar
- Critical bar
- Summary bar
- ◆ Start milestone point
- ◆ Finish milestone point



CLARIFICATIONS, ASSUMPTIONS, & EXCLUSIONS

GMP
 Lowndes County Board of Commissioners
 Lowndes County Jail Expansion
 GMP Estimate
 Wednesday, May 22, 2024

| | | |
|---|--|-----------|
| 01 - GENERAL | | |
| LINE NO. | DESCRIPTION | RI |
| 02 - EXISTING CONDITIONS | | |
| LINE NO. | DESCRIPTION | RI |
| 03 - CONCRETE | | |
| LINE NO. | DESCRIPTION | RI |
| 03.01 | Individual plant certification by The National Ready Mixed Concrete Association (NRMCA) is not included. | |
| 04 - MASONRY | | |
| LINE NO. | DESCRIPTION | RI |
| 04.01 | Normal weight CMU's or Lightweight CMU to be utilized depending on availability | |
| 05 - METALS | | |
| LINE NO. | DESCRIPTION | RI |
| 05.01 | AISC certification for the steel fabricator and erector is not included. | |
| 06 - WOODS, PLASTICS, & COMPOSITES | | |
| LINE NO. | DESCRIPTION | RI |
| 06.01 | AWI certification is not included | |
| 07 - THERMAL & MOISTURE PROTECTION | | |
| LINE NO. | DESCRIPTION | RI |
| 07.01 | ABBA Certification is not included. | |
| 07.02 | FM Global/Mutual requirements are not included. | |
| 08 - OPENINGS | | |
| LINE NO. | DESCRIPTION | RI |
| 09 - FINISHES | | |
| LINE NO. | DESCRIPTION | RI |



CLARIFICATIONS, ASSUMPTIONS, & EXCLUSIONS

GMP
 Lowndes County Board of Commissioners
 Lowndes County Jail Expansion
 GMP Estimate
 Wednesday, May 22, 2024

| | | |
|--|--|-----------|
| | | |
| 09.01 | Gypsum wall board will be installed according to manufacturer and Gypsum Association requirements. Gypsum wall board may be installed in the building prior to enclosing the envelope and permanent HVAC when applicable requirements are met during and after installation. | |
| 10 - SPECIALTIES | | |
| LINE NO. | DESCRIPTION | RI |
| 11 - EQUIPMENT | | |
| LINE NO. | DESCRIPTION | RI |
| 12 - FURNISHINGS | | |
| LINE NO. | DESCRIPTION | RI |
| 13 - SPECIAL CONSTRUCTION | | |
| LINE NO. | DESCRIPTION | RI |
| 21 - FIRE SUPPRESSION | | |
| LINE NO. | DESCRIPTION | RI |
| 22 - PLUMBING | | |
| LINE NO. | DESCRIPTION | RI |
| 23 - HEATING, VENTILATION, & AIR CONDITIONING | | |
| LINE NO. | DESCRIPTION | RI |
| 23.01 | DDC Connection to BAS System is not included. | |
| 26 - ELECTRICAL | | |
| LINE NO. | DESCRIPTION | RI |
| 27 - COMMUNICATIONS | | |
| LINE NO. | DESCRIPTION | RI |
| 28 - ELECTRONIC, SAFETY, & SECURITY | | |
| LINE NO. | DESCRIPTION | RI |
| 28.01 | Security Electronics Scope for Existing Jail is not included. | |



CLARIFICATIONS, ASSUMPTIONS, & EXCLUSIONS

GMP
Lowndes County Board of Commissioners
Lowndes County Jail Expansion
GMP Estimate
Wednesday, May 22, 2024



31 - EARTHWORK

| LINE NO. | DESCRIPTION | RI |
|----------|-------------|----|
|----------|-------------|----|

32 - SITE IMPROVEMENTS

| LINE NO. | DESCRIPTION | RI |
|----------|-------------|----|
|----------|-------------|----|

| | | |
|-------|---|--|
| 32.01 | Landscaping and Irrigation is not included. | |
|-------|---|--|

33 - UTILITIES

| LINE NO. | DESCRIPTION | RI |
|----------|-------------|----|
|----------|-------------|----|



ESTIMATE SUMMARY

Wednesday, May 22, 2024

GMP

Lowndes County Jail Expansion

GMP Estimate

| | | |
|--------------|--|------------------|
| 01 | GENERAL CONDITIONS | 851,959 |
| 01 | PRECONSTRUCTION | 20,000 |
| 01 | ALLOWANCES & BUDGETS | - |
| 01 | GENERAL REQUIREMENTS | 194,916 |
| 02 | EXISTING CONDITIONS | 71,500 |
| 03 | CONCRETE | 279,977 |
| 04 | MASONRY | 217,468 |
| 05 | METALS | 132,630 |
| 06 | WOODS, PLASTICS, & COMPOSITES | 50,037 |
| 07 | THERMAL & MOISTURE PROTECTION | 56,038 |
| 08 | OPENINGS | - |
| 09 | FINISHES | 78,953 |
| 10 | SPECIALTIES | 900 |
| 11 | EQUIPMENT | 1,058,830 |
| 12 | FURNISHINGS | - |
| 13 | SPECIAL CONSTRUCTION | 2,573,403 |
| 14 | CONVEYING SYSTEMS | - |
| 21 | FIRE SUPPRESSION | 178,000 |
| 22 | PLUMBING | 582,455 |
| 23 | HEATING, VENTILATION, & AIR CONDITIONING | 470,000 |
| 26 | ELECTRICAL | 888,520 |
| 27 | COMMUNICATIONS | - |
| 28 | ELECTRONIC SAFETY & SECURITY | - |
| 31 | EARTHWORK | 135,235 |
| 32 | SITE IMPROVEMENTS | - |
| 33 | UTILITIES | 160,670 |
| 99 | BUILDING PERMIT | 13,500 |
| 99 | BONDS & INSURANCES | 171,233 |
| 99 | DESIGN CONTINGENCY | - |
| 99 | ESCALATION CONTINGENCY | - |
| 99 | CONSTRUCTION CONTINGENCY | 271,373 |
| 99 | OVERHEAD & PROFIT (FEE) | 507,456 |
| 99 | PRECONSTRUCTION FEE | - |
| TOTAL | | 8,965,053 |

| | |
|--|--|
| | |
|--|--|

SECTION 5 – LIST OF DOCUMENTS

5/21/24

1. Drawings prepared by Studio 8 Architecture as referenced below.

| # | Description | Date |
|----------------------|------------------------------------|----------|
| CIVIL | | |
| C1.0 | EXISTING CONDITIONS | 2/6/2024 |
| C2.0 | DEMOLITION PLAN | 2/6/2024 |
| C3.0 | LAYOUT PLAN | 2/6/2024 |
| C4.0 | GRADING PLAN | 2/6/2024 |
| C5.0 | DRAINAGE PLAN | 2/6/2024 |
| C6.0 | UTILITY PLAN | 2/6/2024 |
| C7.0 | CONSTRUCTION DETAILS | 2/6/2024 |
| C8.0 | ES & PC PLAN | 2/6/2024 |
| C8.1 | ES & PC DETAIL | 2/6/2024 |
| ARCHITECTURAL | | |
| A1.1 | ARCHITECTURAL SITE PLAN | 2/6/2024 |
| A1.2 | DEMOLITION PLAN | 2/6/2024 |
| A1.3 | LIFE SAFETY PLAN | 2/6/2024 |
| A1.4 | SECURITY PLAN | 2/6/2024 |
| A2.1 | FIRST FLOOR PLAN | 2/6/2024 |
| A2.2 | SECOND FLOOR PLAN | 2/6/2024 |
| A2.3 | LEVEL 1 REFLECTED CEILING PLAN | 2/6/2024 |
| A2.4 | LEVEL 2 REFLECTED CEILING PLAN | 2/6/2024 |
| A3.1 | ELEVATIONS & WINDOW DETAILS | 2/6/2024 |
| A3.2 | BUILDING SECTIONS | 2/6/2024 |
| A3.3 | BUILDING SECTIONS | 2/6/2024 |
| A3.4 | BUILDING SECTIONS | 2/6/2024 |
| A3.5 | WALL SECTIONS | 2/6/2024 |
| A4.1 | DOOR SCHEDULE, DOOR & WINDOW TYPES | 2/6/2024 |
| A4.2 | LARGE SCALE PLANS & DETAILS | 2/6/2024 |
| A4.3 | LARGE SCALE PLANS & DETAILS | 2/6/2024 |
| A4.4 | LARGE SCALE PLANS & DETAILS | 2/6/2024 |
| A4.5 | LARGE SCALE PLANS & DETAILS | 2/6/2024 |
| A5.1 | FINISH SCHEDULE | 2/6/2024 |
| STRUCTURAL | | |
| S0.1 | STRUCTURAL SPECIFICATIONS | 2/6/2024 |
| S0.2 | STRUCTURAL SPECIFICATIONS | 2/6/2024 |
| S0.3 | FOUNDATION DETAILS | 2/6/2024 |
| S0.4 | MASONRY WALL NOTES & DETAILS | 2/6/2024 |
| S1.0 | FOUNDATION & FLOOR PLAN | 2/6/2024 |
| S1.1 | SECOND LEVEL FLOOR FRAMING PLAN | 2/6/2024 |
| S1.2 | ROOF FRAMING PLAN | 2/6/2024 |

| | | |
|----------------------------|---|----------|
| PLUMBING | | |
| FP1.0 | FIRE PROTECTION | 2/6/2024 |
| P0.1 | PLUMBING SPECIFICATIONS, SCHEDULES & LEGEND | 2/6/2024 |
| P0.2 | PLUMBING DETAILS | 2/6/2024 |
| P0.3 | DOMESTIC BOOSTER PUMP | 2/6/2024 |
| P0.4 | GAS RISER | 2/6/2024 |
| P1.1 | FIRST FLOOR PLANS- PLUMBING | 2/6/2024 |
| P1.2 | SECOND FLOOR PLANS- PLUMBING | 2/6/2024 |
| P2.1 | ADMIN/SUPPORT PLUMBING FLOOR PLAN- WATER & GAS | 2/6/2024 |
| P2.2 | ADMIN/SUPPORT PLUMBING FLOOR PLAN- S,W & V | 2/6/2024 |
| MECHANICAL | | |
| M0.0 | HVAC NOTES, LEGENDS & ABBREVIATIONS | 2/6/2024 |
| M0.1 | HVAC SCHEDULES | 2/6/2024 |
| M0.2 | HVAC DETAILS | 2/6/2024 |
| M2.1 | ADMIN/SUPPORT FLOOR PLAN | 2/6/2024 |
| ELECTRICAL | | |
| E0.1 | ELECTRICAL LEGEND & SYMBOLS | 2/6/2024 |
| E0.2 | ELECTRICAL SITE PLAN | 2/6/2024 |
| E2.1 | ADMIN/SUPPORT FLOOR PLAN- POWER | 2/6/2024 |
| E2.2 | ADMIN/SUPPORT FLOOR PLAN- LIGHTING | 2/6/2024 |
| E5.1 | RISER DIAGRAM | 2/6/2024 |
| ELECTRONIC SECURITY | | |
| ES0.1 | LEGEND AND GENERAL NOTES | 2/6/2024 |
| ES0.2 | LEGEND AND GENERAL NOTES | 2/6/2024 |
| ES0.3 | LOW VOLTAGE DETAILS | 2/6/2024 |
| ES1.1 | SITE PLAN SECURITY & LOW VOLTAGE | 2/6/2024 |
| ES2.1 | NEW HOUSING UNIT FLOOR PLAN SECURITY | 2/6/2024 |
| ES3.1 | TYPICAL HOUSING CONTROL ROOM & SECURITY EQ ROOM | 2/6/2024 |
| ES3.2 | CONTROL ROOM SECT. EQ. ROOM ELEVATIONS | 2/6/2024 |
| ES4.1 | TYPICAL TOUCHSCREEN LOCKING PANEL GRAPHICS | 2/6/2024 |
| ES4.2 | CCTV ONE LINE DIAGRAM & DETAILS | 2/6/2024 |
| ES4.3 | TYPICAL LOCKING CABINET LAYOUT | 2/6/2024 |
| ES5.1 | LOCKING & CCTV ONE LINE DIAGRAM SECURITY | 2/6/2024 |
| ES5.2 | FIRE ALARM & FIBER OPTIC ONE LINE DIAGRAM | 2/6/2024 |
| ESX2.1 | EXISTING SITE PLAN & BOOKING INTAKE FLOOR PLAN | 2/6/2024 |
| ESX2.2 | EXISTING ADMIN & MEDICAL VISITING FLOOR PLAN | 2/6/2024 |
| ESX2.3 | EXISTING HOUSING UNIT C- 1ST LEVEL FLOOR PLAN | 2/6/2024 |
| ESX2.4 | EXISTING HOUSING UNIT C- 2ND LEVEL FLOOR PLAN | 2/6/2024 |
| ESX2.5 | EXISTING HOUSING UNIT D- 1ST LEVEL FLOOR PLAN | 2/6/2024 |
| ESX2.6 | EXISTING HOUSING UNIT D- 2ND LEVEL FLOOR PLAN | 2/6/2024 |
| ESX2.7 | EXISTING OLD HOUSING & MEDICAL FLOOR PLAN | 2/6/2024 |
| ESX2.8 | LEVEL 1 EXISTING HOUSING "A" FLOOR PLAN | 2/6/2024 |
| ESX2.9 | LEVEL 2 EXISTING HOUSING "A" FLOOR PLAN | 2/6/2024 |
| ESX2.10 | LEVEL 1 EXISTING HOUSING "B" FLOOR PLAN | 2/6/2024 |

| | | |
|---------|--|----------|
| ESX2.11 | LEVEL 2 EXISTING HOUSING "B" FLOOR PLAN | 2/6/2024 |
| ESX3.1 | EXISTING SITE PLAN & BOOKING INTAKE FLOOR PLAN | 2/6/2024 |
| ESX3.2 | EXISTING ADMIN & MEDICAL VISITING FLOOR PLAN | 2/6/2024 |

2. Specifications prepared by Studio 8 Architecture as referenced below.

| # | Description | Date |
|--|---|------------------|
| SECTION | | |
| A | Invitation for Bid | February 6, 2024 |
| B | Proposal Form | February 6, 2024 |
| C | Instructions to Bidders | February 6, 2024 |
| D | A201-2017 General Conditions of the Contract for Construction | February 6, 2024 |
| E | Supplementary Conditions | February 6, 2024 |
| <u>DIVISION 1 – GENERAL REQUIREMENTS</u> | | |
| 013300 | Submittal Procedures | February 6, 2024 |
| 015000 | Temporary Facilities and Controls | February 6, 2024 |
| 015013 | Mobilization and Cleanup | February 6, 2024 |
| 017100 | Final Clean-Up | February 6, 2024 |
| 017700 | Contract Closeout | February 6, 2024 |
| <u>DIVISION 2 – EXISTING CONDITIONS</u> | | |
| 024116 | Structural Demolition | February 6, 2024 |
| <u>DIVISION 3 – CONCRETE</u> | | |
| <u>DIVISION 4 – MASONRY</u> | | |
| 048000 | Masonry | February 6, 2024 |
| <u>DIVISION 5 – METALS</u> | | |
| 055000 | Metal Fabrications | February 6, 2024 |
| 055100 | Metal Grating Stairs and Railings | February 6, 2024 |
| <u>DIVISION 6 – WOOD, PLASTICS, AND COMPOSITES</u> | | |
| 061000 | Rough Carpentry | February 6, 2024 |
| 064023 | Interior Architectural Woodwork | February 6, 2024 |
| <u>DIVISION 7 – THERMAL AND MOISTURE PROTECTION</u> | | |
| 071900 | Vapor Barriers | February 6, 2024 |
| 072100 | Thermal Insulation | February 6, 2024 |
| 078413 | Penetration Firestopping | February 6, 2024 |
| 079200 | Caulking | February 6, 2024 |
| 079500 | Expansion Control | February 6, 2024 |
| <u>DIVISION 8 – OPENINGS</u> | | |
| 081113 | Hollow Metal Doors and Frames | February 6, 2024 |
| 081123 | Security Hollow Metal Doors and Frames | February 6, 2024 |
| 086200 | Unit Skylights | February 6, 2024 |

| | | |
|--------|--|------------------|
| 087100 | Finish Hardware | February 6, 2024 |
| 087163 | Security Hardware | February 6, 2024 |
| 088853 | Security Glass and Glazing | February 6, 2024 |
| | <u>DIVISION 9 – FINISHES</u> | |
| 092900 | Gypsum Board and Metal Framing | February 6, 2024 |
| 095113 | Acoustical Panel Ceilings | February 6, 2024 |
| 096500 | Resilient Flooring and Base | February 6, 2024 |
| 099113 | Exterior Painting | February 6, 2024 |
| 099123 | Interior Painting | February 6, 2024 |
| 099600 | High-Performance Coatings | February 6, 2024 |
| | <u>DIVISION 10 – SPECIALTIES</u> | |
| 102813 | Security Accessories | February 6, 2024 |
| 104401 | Institutional Cover System for Concealment | February 6, 2024 |
| | <u>DIVISION 11 – EQUIPMENT</u> | |
| 111980 | Modular Detention Cell System | February 6, 2024 |
| 111920 | Pre-Engineered Steel Detention Modules | February 6, 2024 |
| | <u>DIVISION 12 – FURNISHINGS</u> | |
| 125500 | Security Furniture | February 6, 2024 |
| | <u>DIVISION 13 – SPECIAL CONSTRUCTION</u> | |
| 133419 | Pre-Engineered Metal Building | February 6, 2024 |
| | <u>DIVISION 21 – FIRE SUPPRESSION</u> | |
| 210500 | Common Work Results for Fire Suppression | February 6, 2024 |
| 211100 | Facility Fire-Suppression Water-Service Piping | February 6, 2024 |
| 211313 | Wet-Pipe Sprinkler Systems | February 6, 2024 |
| 211316 | Dry-Type Sprinkler Systems | February 6, 2024 |
| | <u>DIVISION 22 – PLUMBING</u> | |
| 220500 | Common Work Results for Plumbing | February 6, 2024 |
| 220519 | Meters and Gauges for Plumbing Piping | February 6, 2024 |
| 220523 | General-Duty Valves for Plumbing Piping | February 6, 2024 |
| 220529 | Hangers and Supports for Plumbing Piping and Equipment | February 6, 2024 |
| 220533 | Heat Tracing for Plumbing Piping | February 6, 2024 |
| 220553 | Identification for Plumbing Piping and Equipment | February 6, 2024 |
| 220700 | Plumbing Insulation | February 6, 2024 |
| 221116 | Domestic Water Piping | February 6, 2024 |
| 221119 | Domestic Water Piping Specialties | February 6, 2024 |
| 221216 | Facility Natural Gas Piping | February 6, 2024 |
| 221316 | Sanitary Waste and Vent Piping | February 6, 2024 |
| 221319 | Sanitary Waste Piping Specialties | February 6, 2024 |
| 224000 | Plumbing Fixtures | February 6, 2024 |
| | <u>DIVISION 23 – HEATING VENTILATING AND AIR CONDITIONING</u> | February 6, 2024 |
| 230500 | Common Work Results for HVAC | February 6, 2024 |
| 230513 | Common Motor Requirements for HVAC Equipment | February 6, 2024 |

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|--------|---|------------------|
| 230549 | Mechanical Sound and Vibration Isolation | February 6, 2024 |
| 230593 | Testing, Adjusting, and Balancing | February 6, 2024 |
| 230700 | HVAC Insulation | February 6, 2024 |
| 232300 | Refrigerant Piping | February 6, 2024 |
| 233113 | Metal Ducts | February 6, 2024 |
| 233300 | Air Duct Accessories | February 6, 2024 |
| 233423 | HVAC Power Ventilation | February 6, 2024 |
| 233600 | Air Terminal Units | February 6, 2024 |
| 233713 | Diffusers, Registers, and Grilles | February 6, 2024 |
| 233813 | Commercial-Kitchen Hoods | February 6, 2024 |
| 238126 | Split System Air Conditioners | February 6, 2024 |
| | <u>DIVISION 25 – INTEGRATED AUTOMATION</u> | February 6, 2024 |
| | <u>DIVISION 26 – ELECTRICAL</u> | February 6, 2024 |
| 260500 | Common Work Results for Electrical | February 6, 2024 |
| 260501 | Scope of the Work – Electrical | February 6, 2024 |
| 260502 | Basic Materials and Methods | February 6, 2024 |
| 260513 | Conductors and Cables | February 6, 2024 |
| 260515 | Wiring Devices | February 6, 2024 |
| 260519 | Conductors | February 6, 2024 |
| 260523 | Outlet Boxes and Junction Boxes | February 6, 2024 |
| 260526 | Grounding and Bonding | February 6, 2024 |
| 260529 | Supporting Devices | February 6, 2024 |
| 260533 | Conduits and Raceways | February 6, 2024 |
| 260534 | Outlet Boxes | February 6, 2024 |
| 262416 | Branch Circuit Panelboards | February 6, 2024 |
| 262726 | Wiring Devices | February 6, 2024 |
| 262817 | Disconnect Switches | February 6, 2024 |
| 263213 | Package Engine Generator | February 6, 2024 |
| 263600 | Transfer Switch | February 6, 2024 |
| 264113 | Lighting Protection System | February 6, 2024 |
| 265100 | Lighting | February 6, 2024 |
| | <u>DIVISION 27 – COMMUNICATIONS</u> | February 6, 2024 |
| 270000 | Telecom General | February 6, 2024 |
| 270510 | Firestop for Telecom System | February 6, 2024 |
| 270526 | Grounding for Telecom System | February 6, 2024 |
| 270528 | Pathways for Telecom System | February 6, 2024 |
| 270543 | Underground Ducts and Raceways | February 6, 2024 |
| 270553 | Identification for Telecom System | February 6, 2024 |
| 270800 | Commissioning for Telecom System | February 6, 2024 |
| 271119 | Termination Blocks and Patch Panels | February 6, 2024 |
| 271323 | Fiber Optic Backbone | February 6, 2024 |

| | | |
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| 271513 | Copper Horizontal Cabling | February 6, 2024 |
| 271523 | Fiber Horizontal Cabling | February 6, 2024 |
| 271543 | Faceplates and Connectors | February 6, 2024 |
| 271619 | Patch Cords and Workstation Cords | February 6, 2024 |
| 272133 | Wireless Access Points | February 6, 2024 |
| | <u>DIVISION 28 – ELECTRONIC SAFETY AND SECURITY</u> | February 6, 2024 |
| 280000 | General Security Electronics | February 6, 2024 |
| 280100 | Scope of Work | February 6, 2024 |
| 280120 | Touch Screen | February 6, 2024 |
| 280140 | PLC | February 6, 2024 |
| 280150 | Electronic Relay System | February 6, 2024 |
| 280200 | Intercom System | February 6, 2024 |
| 280300 | IP Video Surveillance | February 6, 2024 |
| 280508 | Grounding and Bonding | February 6, 2024 |
| 280710 | UPS | February 6, 2024 |
| 280800 | Surge Protection | February 6, 2024 |
| 280900 | Wiring Methods | February 6, 2024 |
| 283111 | Fire Alarm Safety System | February 6, 2024 |
| | <u>DIVISION 31 – EARTHWORK</u> | February 6, 2024 |
| 313116 | Termite Control | February 6, 2024 |
| | <u>DIVISION 32 – EXTERIOR IMPROVEMENTS</u> | February 6, 2024 |
| 323113 | Chain Link Fences and Gates | February 6, 2024 |
| END | | February 6, 2024 |

EXHIBIT "G"

CONSTRUCTION MANAGER'S APPLICATION FOR PAYMENT

TO: Board of Commissioners of Lowndes County

FROM: _____ Contract Date: _____

Project Name: A New Addition for the Lowndes County Jail in Valdosta, GA for the Lowndes County Board of Commissioners Application No.: _____

Project Address: _____ Date of Requisition: _____

Period From: _____ To: _____ Date Payment Due: _____

The Construction Manager submits this Application for Payment in accordance with the Construction Management Agreement between Construction Manager and the County, and requests disbursement by the County of the net amount due, calculated as follows:

- 1. **Original Guaranteed Maximum Price** \$ _____
- 2. Total Value of Approved Change Orders \$ _____
- 3. **Adjusted Guaranteed Maximum Price** \$ _____

- 4. Amount of Cost of the Work to date: (See attached Exhibit A for breakdown) \$ _____
- 5. Amount of Construction Manager's Fee to date (See attached Exhibit B for breakdown) \$ _____
- 6. **Gross Total to Date** \$ _____
- 7. Less Total Amount Previously Paid \$ _____
- 8. **NET AMOUNT DUE THIS REQUEST** \$ _____

- 11. Estimated Maximum Balance to Finish (line 3 minus line 6) \$ _____

CERTIFICATE OF THE CONSTRUCTION MANAGER: I hereby certify that the statements of the work performed and the materials supplied to date, as shown above and in the attached Exhibits A and B, are true and accurate and that this Application is submitted in accordance with, and the Construction Manager is owed the amount stated for Cost of the Work and Construction Manager's Fee under, the terms of the Construction Management Agreement between the Construction Manager and the Board of Commissioners of Lowndes County. I also certify that all amounts requested for payment of subcontractors and suppliers in, and disbursed to

Construction Manager pursuant to, the previous Construction Manager's Applications for Payment, have been paid to all subcontractors, vendors and material suppliers providing labor, materials, and equipment to the Project.

WITNESS the hand and seal of the undersigned authorized representative of the Construction Manager, as of the _____ day of _____, 20__.

Title: _____

Signed, sealed, sworn to and subscribed before the undersigned notary public:

Notary Public

(NOTARY SEAL)

My Commission Expires: _____

EXHIBIT "H"

Please Return To:
Thompson H. Gooding, Jr., Esq.
Elliott, Blackburn & Gooding, P.C.
3016 N. Patterson St.
Valdosta, GA 31602

**NOTICE OF COMMENCEMENT
(PUBLIC PROJECT)**

TO: CLERK OF THE SUPERIOR COURT OF LOWNDES COUNTY, GEORGIA

Pursuant to O.C.G.A. § 36-91-72, the contractor named below gives Notice of Commencement of improvements to real property by providing the following information:

1. Name, address, and telephone number of the contractor:

2. Name and location of the public work being constructed or a general description of the improvement: A New Addition for the Lowndes County Jail located at approximately 100 East Central Avenue, Valdosta, Lowndes County, GA for the Lowndes County Board of Commissioners.

3. Name and address of the governmental entity that is contracting for the public works construction: Board of Commissioners of Lowndes County, 327 N. Ashley Street, Valdosta, GA 31601, Attn: County Manager

4. Name and address of the surety for the performance and payment bonds, if any:

5. Name and address of the holder of the security deposit provided, if any:

Signature: _____

Authorized Representative for:

The Contractor

Date: _____

LOWNDES COUNTY BOARD OF COMMISSIONERS
COMMISSION AGENDA ITEM

SUBJECT: RAVE Alert Service Agreement

DATE OF MEETING: May 28, 2024

BUDGET IMPACT: \$29,900.00

FUNDING SOURCE:

Work
Session/Regular
Session

- Annual - \$29,900
- Capital
- N/A
- SPLOST
- TSPLOST

COUNTY ACTION REQUESTED ON: Approval of Quote and Terms of Service with RAVE Alert

HISTORY, FACTS AND ISSUES: Since 2007, Lowndes County has maintained a mass notification and emergency alerting system. This system allows emergency management to send alerts to residents who may be impacted by some type of emergency situation. Examples of past uses are missing person alerts, flood warnings, boil water advisories, and it was used extensively during COVID-19 to provide messaging to the public. In addition to alerts initiated by emergency management, it also provides alerts for Warnings that are initiated by the National Weather Service, such as Tornado Warnings, Flash Flood Warnings and Severe Thunderstorm Warnings.

Code Red, and later their parent company OnSolve, has been the service provider since the system was originally implemented in 2007. At that time, they were the market leaders and had what was deemed to be the best system available. As technology has evolved and new companies have entered the market, the gap between competitors has narrowed. Code Red has been purchased and/or acquired by other companies several times over the past 17 years. As part of the company's growth, there has seemingly been a shift towards the corporate market with less focus on government and public safety-focused applications. This has resulted in a gradual decline in the level of customer service Lowndes County has received in recent years.

Lowndes County Emergence Management Agency (EMA) continually evaluates other options to ensure that we are providing the best product and service to the residents of Lowndes County. With that in mind, RAVE Alert, which was recently acquired by, and is now a product of Motorola, has a system that will provide more functionality and reliability to meet our needs. They are also able to provide these expanded services at a pricing structure less than what we currently pay for Code Red. After evaluation of numerous systems, including Code Red, we believe that RAVE Alert is the best product for Lowndes County moving forward.

- OPTIONS: 1. Authorize the Chairman to sign the Customer Acceptance Form with Rave Mobile Safety.
2. Board's Pleasure

RECOMMENDED ACTION: Approve

DEPARTMENT: Emergency Management

DEPARTMENT HEAD: Ashley Tye

ADMINISTRATIVE COMMENTS AND RECOMMENDATIONS:



Customer Acceptance Form

Order #: Q-42599
Date: April 30, 2024
Expires On: June 30, 2023

492 Old Connecticut Path
 Framingham, Massachusetts 01701
 Phone: (508) 532-8953

Ship To
 Lowndes County, GA ("Customer")
 250 Douglas Street
 Valdosta, GA 31601
 Valdosta, Georgia,
 31601 United States

Bill To
 Lowndes County, GA
 250 Douglas Street
 Valdosta, GA 31601
 Valdosta, Georgia
 31601 United States

| SALESPERSON | EMAIL | PAYMENT METHOD |
|---------------|-------------------------------------|----------------|
| Lesley Turner | lesley.turner@motorolasolutions.com | Net 30 |

| | |
|------------------------------|--|
| INITIAL LICENSE TERM: | 36.0 month term beginning on 7/15/2024 |
|------------------------------|--|

Annual License Fees

| Product Description | Unit Price | QTY | Annual Fee |
|---------------------------------------|------------|------------|--------------------|
| IPAWS Integration | \$0.00 | 1.00 | \$0.00 |
| Mobile Reach | \$0.06 | 120,000.00 | \$7,200.00 |
| Rave Alert External Bundle | \$0.16 | 120,000.00 | \$19,200.00 |
| Additional SMS Opt-In Keyword License | \$0.00 | 9.00 | \$0.00 |
| Rave Notifier Bundle | \$1.50 | 1,000.00 | \$1,500.00 |
| Annual License Fees TOTAL: | | | \$27,900.00 |

Setup Fees

| One-Time Service Description | One-Time Fee |
|--|-------------------|
| Critical Communications Set-Up Fee | \$2,000.00 |
| One-Time Professional Service Fees TOTAL: | \$2,000.00 |

Fee Schedule:

| | Term: | Due By: | Amount: |
|--|---|---------|--------------------|
| | Set-up Fees: | Net30 | \$2,000.00 |
| | Year 1 Annual License Fees (7/15/24 – 7/14/25): | Net30 | \$27,900.00 |
| | Year 2 Annual License Fees (7/15/25 – 7/14/26): | 7/15/25 | \$27,900.00 |
| | Year 3 Annual License Fees (7/15/26 – 7/14/27): | 7/15/26 | \$27,900.00 |
| | Total Fees: | | \$85,700.00 |

ACCEPTANCE

Please sign and date this Customer Acceptance Form to indicate your acceptance of this proposal as an authorized representative of Customer. Payment will be due Net 30 from the date Customer signs this Customer Acceptance Form. If Customer's internal procedures require that a purchase order be issued as a condition to payment of any Fees due to Rave, Customer will timely issue such purchase order to Rave. This Customer Acceptance Form is governed by the Master License and Services Agreement found at <https://www.getrave.com/terms-of-service/current.pdf>. Any requested changes to the terms by Customer will impact price proposal above. The effective date will be the date Customer signs this Customer Acceptance Form ("Effective Date").

RAVE ALERT

No additional fees shall be payable to Rave for Rave Alert messages manually sent for immediate delivery by a Management Console user via the Emergency SMS Profile. The Rave Alert annual license fee also includes unlimited messaging via Email, Social Media, App Push, RSS, or Outbound CAP delivery modes. The delivery of Voice, SMS via 10DLC, or SMS via Web Service messages initiated via the Rave API Toolkit, the Inbound CAP API, or scheduled for future delivery from within the Management Console, may be subject to additional fees. Unless specifically addressed in this or another Customer Acceptance Form, additional per message fees (\$0.03 per SMPP or Web Service SMS message, \$0.08 per Voice Message) are billed quarterly in arrears for message quantities greater than 10,000 messages per month or 1 message per registered user per month, whichever is greater. Rave's Voice messaging fees apply to voice calls made within and to the contiguous continental United States. International and long-distance rates apply for other calls. Rave reserves the right to audit Customer's usage for compliance with message quantities purchased and used.

SPECIAL CONDITIONS

In the event that the Customer fails to appropriate funds or make monies available for any annual period covered by the Agreement Term for the services to be provided by Rave, this Agreement shall be terminated on the last day of the last annual period for which funds were appropriated or monies made available for such purposes. This provision will not apply if funds are appropriated to the Customer for services similar to the Services offered by Rave under this Agreement. Customer represents that it will use its best efforts to obtain the necessary funds to make all payments due to Rave under this Agreement.

Rave Wireless, Inc.

Signature:

Date:

Name (Print):

Title:

Lowndes County, GA

Signature:

Date:

Name (Print):

Title:

Billing Contact Information

First Name:

Last Name:

Email:

Phone:

Please sign and email to Lesley Turner at lesley.turner@motorolasolutions.com

THANK YOU FOR YOUR BUSINESS!

MASTER LICENSE AND SERVICES AGREEMENT

This Master License and Services Agreement (together with Rave's Support and Service Level Policy and all Rave customer acceptance forms ["Customer Acceptance Forms"]) entered into by the Parties, the "Agreement") governs the license of all Products and acquisition and use of all Services provided to the customer referenced on the accompanying Customer Acceptance Form ("Customer") by Rave Wireless, Inc. d/b/a Rave Mobile Safety, SwiftReach Networks, LLC, or RMS Software, Inc., depending on which entity executed the Customer Acceptance Form (in either case, such entity is referred to herein as "Rave"). Each of Rave and Customer shall also be referred to individually as a "Party" and collectively as the "Parties".

1. SERVICES AND PRODUCTS

1.1 Services. In consideration of the Fee(s) payable by Customer pursuant to the Customer Acceptance Form(s), Rave shall provide the Customer with (i) the Rave services specified in such Customer Acceptance Form(s), (ii) the related technical support services specified in Rave's Support and Service Level Policy ("Support"), and (iii) the license to Rave's related proprietary application software product(s) and Documentation (collectively, "Products") set forth in Section 1.2 below. For purposes of this Agreement, the Rave services, Support and Products referred to above in (i)-(iii), together with any Professional Services specified in the Customer Acceptance Form(s), are collectively referred to as the "Services".

1.2 Products License. Subject to the terms and conditions of this Agreement, Rave hereby grants to Customer a limited, non-exclusive, non-transferable (except pursuant to Section 9.5 below), non-sublicensable right and license during the applicable License Term (i) to access and operate the Products, (ii) to permit Administrators to use the features and functions of the Products, and (iii) to make copies of the Documentation solely for Customer's internal use by Administrators. Rave may, in its discretion, develop and release generally to licensees updates or upgrades to the Products. Subject to Customer's payment of the Fees and all other amounts that may be payable with respect to the Products, Rave shall, during the applicable License Term, make any such updates and upgrades available to Customer if and when generally released to its other licensees at no additional cost (but not including any software marketed by Rave as a separate product or as a module for which additional fees are charged). Any such updates and upgrades provided under this Agreement shall be deemed to constitute part of the Products and shall be subject to all of the terms and conditions set forth in this Agreement. Customer acknowledges that Rave and its licensors own all intellectual property rights in the Products (and all derivative works thereof) and Rave expressly reserves all rights not expressly granted to Customer hereunder.

1.3 Product Restrictions. Except to the extent otherwise expressly authorized by Rave under this Agreement, Customer shall not, and shall not allow any third party to, copy, modify, adapt, translate, publicly display, publish, create derivative works of or distribute any of the Products. Customer will not use any Product for any purpose beyond the scope of the licenses granted in Section 1.2 above. Without limiting the foregoing, Customer will not (i) authorize or permit use of the Products by or for persons other than Administrators; or (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any component of the Products is compiled or interpreted. Customer shall duplicate all proprietary notices and legends of Rave upon any and all copies of the Products authorized to be made by Customer and shall not remove, alter or obscure any such proprietary notice or legend.

1.4 Customer Content License. Applicable specifically to the Rave Aware product, subject to the terms and conditions of this Agreement, Customer hereby grants to Rave a limited, non-exclusive, non-transferable (except pursuant to Section 9.5 below), non-sublicensable right and license during the applicable License Term (i) to access and use Customer Content to provide Products to Customer in accordance with this Agreement, (ii) use and create derivative works of Customer Content including combining Customer Content with Rave's other customers' data to create a data consortium ("Data Consortium") and make such Data Consortium available through the Products. Except as otherwise provided in this Agreement, Rave shall not disclose Customer Content to third parties.

2. TERM AND TERMINATION

2.1 License Term and Agreement Term. The initial term of each license to a Product under this Agreement shall be set forth in the applicable Customer Acceptance Form ("Initial License Term"). Except as otherwise specified in such Customer Acceptance Form, each license will be automatically renewed on the same terms and conditions herein for successive one-year terms (each, a "Renewal License Term"), at Rave's then-current pricing, unless either Party provides written notice to the other

Party of its intent not to renew such license at least ninety (90) days prior to the expiration date of the then-current License Term. As used in this Agreement, "License Term" means the entire period during which the license to a Product is in effect. The term of this Agreement shall commence on the Effective Date of the initial Customer Acceptance Form entered into by the Parties and, subject to any earlier termination of this Agreement by a Party pursuant to Section 2.2 below, shall automatically expire on such date that it is not renewed ("Agreement Term").

2.2 Termination for Breach/Bankruptcy. Either Party may terminate this Agreement (or the license to any Product(s) hereunder) upon written notice in the event that the other Party fails to make a required payment hereunder or materially breaches this Agreement and thereafter (i) in the case of non-payment, has failed to pay such amounts within five (5) days after receiving written notice thereof; or (ii) in the case of material breach, has failed to cure the breach within thirty (30) days after receiving written notice thereof. In addition, either Party may terminate this Agreement upon written notice after the other Party has executed an assignment for the benefit of creditors or filed for relief under any applicable bankruptcy, reorganization, moratorium, or similar debtor relief laws, or in the event that a receiver has been appointed for the other Party or any of its assets or properties, or an involuntary petition in bankruptcy has been filed against such other Party, which proceeding or petition has not been dismissed, vacated, or stayed within thirty (30) days.

2.3 Effect of Termination. Upon termination or expiration of this Agreement, each Party shall (i) immediately discontinue all use of the other Party's Confidential Information and, in the case of the Customer, the Products; (ii) return to the other Party or, at the other Party's option, destroy, all originals and all copies of such other Party's Confidential Information then in its possession; and (iii) shall promptly pay all amounts due and remaining payable hereunder. Termination or expiration of this Agreement will automatically terminate all licenses granted hereunder.

2.4 Survival of Obligations. The provisions of this Agreement that, by their nature, are intended to survive a termination or expiration of this Agreement (or the license to any Products hereunder), including without limitation Customer's obligations to pay any amounts due and outstanding hereunder and the provisions of Sections 2.4, 4, 5, 6, 7, 8, 9 and 10 hereof, shall survive termination or expiration of this Agreement.

3. PROFESSIONAL SERVICES

Any Professional Services to be provided by Rave to Customer shall be provided in accordance with the specific terms and conditions of the relevant Customer Acceptance Form covering such Professional Services.

4. FEES AND PAYMENTS

The license fees payable by Customer for each Product and the fees payable for any related Professional Services are set forth in the applicable Customer Acceptance Form covering such Product(s) and/or Professional Services, as the case may be (collectively, "Fees"). The Fees are based on the then-current pricing of Rave's telecommunication carriers, which may change from time to time. Rave reserves the right to increase the Fees at any time if its carriers significantly increase their pricing. All amounts payable under this Agreement shall exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges. Customer will be responsible for payment of all such taxes (other than taxes based on Rave's net income), fees, duties and charges, and any related penalties and interest, arising from the payment of (or failure to pay) any Fees. Customer must notify Rave, or its designee, in writing of any dispute or disagreement with invoiced charges within thirty (30) days after the date of invoice. Absent such notice, Customer shall be deemed to have agreed to the Fees as invoiced upon the expiration of such time period. Rave reserves the right to charge, and Customer agrees to pay, a late charge equal to the lesser of one and one-half percent (1½%) or the highest rate permitted by law, per month, on any amount not paid by its due date that is not the subject of a reasonable, good faith dispute.

5. CUSTOMER OBLIGATIONS

5.1 Customer Operation of Products. Customer acknowledges and agrees (i) that Customer is responsible for certain aspects of the operation of the Products, as set forth in the Documentation, including the related training and supervision of Administrators, and (ii) that in no event shall Rave have any liability arising from Customer's or any Administrators' failure to operate the Products in accordance with the Documentation.

5.2 Customer Compliance. Customer only shall use the Services in compliance with all applicable laws, regulations, ordinances, rules or other requirements promulgated by governing authorities or imposed by Third Party Service Providers having jurisdiction over the Parties or are involved with the operation or use of the Services. Customer agrees to cooperate fully with Rave to ensure that Rave and Customer comply with such requirements, as they may be modified from time to time. Customer shall send messages only to individuals who have opted-in to receive messages from Customer and have not opted out. Customer shall not (i) deliver to Third Party Service Providers for transmission or disseminate any content or material under this Agreement that (a) is harassing, defamatory threatening, obscene, or otherwise objectionable, including material that is false or misleading or (b) violates the rights of any person or company protected by copyright, trademark, trade secret, patent or other intellectual property, privacy or other laws or regulations; (ii) use the Services or Rave's systems to transmit or disseminate unsolicited material, including without limitation "junk mail" or "unsolicited bulk e-mail", or other advertising material to persons or entities that have not specifically agreed to receive such material by either opting in or not opting out; or (iii) use the Services or Rave systems to introduce malicious programs into the Products, Rave's systems, or the Third Party Service Providers' networks or servers, including viruses, worms, Trojan horses, e-mail bombs, cancelbots or other computer programming routines that are intended to damage, interfere with, intercept or expropriate any system, data or personal information, including executing any form of network monitoring that will intercept or extract data. Under no circumstances shall Customer make any representations, warranties or guarantees with respect to the Services, except to the extent expressly set forth in this Agreement. Customer shall be responsible for the compliance by all Designated Institutions and their respective Administrators, and End Users with all of the terms and conditions of this Agreement.

5.3 Customer Content. If Customer provides or otherwise makes available any information or any other data collected by Customer or a third party regarding End Users to Rave or any Third Party Service Provider or Emergency Service Provider in connection with the operation or use of the Services (collectively, the "Customer Content"), Customer represents and warrants that Customer has all legal rights to such Customer Content, in order to use and disclose, and permit use and disclosure of, the Customer Content in connection with the operation and use of the Services as contemplated by the Documentation and this Agreement.

6. WARRANTY, DISCLAIMER, AND LIMITATIONS

6.1

Warranty

(a) **Mutual Warranties.** Applicable specifically to the Rave Aware product, each party represents and warrants it shall comply with the Federal Bureau of Investigations Criminal Justice Information Security Addendum ("Security Addendum") as set forth in Appendix 2.

(b) **Additional Rave Warranty.** Rave represents and warrants it shall impose the contractual obligations as set forth in Appendix 2 on its customers who have access to the Data Consortium.

6.2 Disclaimer. EXCEPT AS SET FORTH IN SECTION 6.1 HEREOF, THE SERVICES AND PRODUCTS ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, RAVE EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, RELATING TO THE SERVICES AND PRODUCTS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, DATA ACCURACY, SATISFACTORY QUALITY, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT. NO WARRANTY IS MADE BY RAVE ON THE BASIS OF TRADE USAGE, COURSE OF DEALING OR COURSE OF TRADE. Rave does not warrant that the Services or Products will meet Customer's or any Designated Institution's requirements, that the operation thereof will be uninterrupted or error-free, or that all errors will be corrected. Without limiting the foregoing, Customer acknowledges and agrees that (i) Rave cannot guarantee the performance

of any Third Party Service Provider or Emergency Service Provider and that neither Party may make any claims or guarantees on behalf of Third Party Service Providers or Emergency Service Providers regarding any matters, (ii) delivery of any messages or any information regarding End Users in connection with the operation or use of the Services is not guaranteed and neither Rave nor any Third Party Service Provider or Emergency Service Provider shall be responsible for any failure of delivery, and (iii) Rave shall not be responsible for any disruption to or failure of the Services resulting from the actions or inactions of any Third Party Service Providers or Emergency Service Providers. Customer acknowledges and agrees that the Services and Products are not intended to replace the services of primary safety and emergency response services, including without limitation, 911 or equivalent, fire, police, emergency medical and public health services (collectively, "Emergency Service Providers").

6.3 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY OR, IN RAVE'S CASE, ITS REPRESENTATIVE, BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. Notwithstanding anything herein to the contrary, the cumulative liability of either Party to the other and any third party for all claims arising from or relating to this Agreement and/or the operation or use of the Services and Products shall not exceed the total amount of all Fees paid to Rave by Customer hereunder during the twelve (12)-month period immediately prior to the event, act or omission giving rise to such liability, regardless of whether any action or claim is based on warranty, indemnification, contract, tort, negligence, strict liability or otherwise. The existence of multiple claims will not enlarge this limit. The warranty disclaimers and exclusions and limitations of liability in this Section 6 are intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective and form an essential basis of the bargain between the Parties. Absent any of such disclaimers, exclusions or limitations of liability, the provisions of this Agreement, including, without limitation, the economic terms, would be substantially different.

7. CONFIDENTIALITY

7.1 Mutual Confidentiality Obligations. Each Party agrees: (i) to use the Confidential Information of the other Party only for the purposes of this Agreement; (ii) to hold in confidence and protect the Confidential Information of the other Party from dissemination to, and use by, any third party; (iii) not to create any derivative work from Confidential Information of the other Party; (iv) to restrict access to the Confidential Information to such of its personnel, agents, and/or consultants who have a need to have access and who have been advised of and have agreed in writing or are otherwise required to treat such information as confidential; and (v) to return or destroy all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement.

7.2 Confidentiality Exceptions. The foregoing restrictions shall not apply to Confidential Information that (i) is publicly available or in the public domain at the time disclosed; (ii) is or becomes publicly available or enters the public domain through no fault of the recipient Party; (iii) is rightfully communicated to the recipient Party by persons not bound by confidentiality obligations with respect thereto; (iv) is already in the recipient Party's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (v) is independently developed by the recipient Party; (vi) is approved for release or disclosure by the disclosing Party without restriction; or (vii) is required to be publicly disclosed by the recipient Party pursuant to applicable freedom of information laws. Each Party may disclose Confidential Information to the limited extent required (a) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure shall first have given written notice to the other Party (if permitted) and made a reasonable effort to obtain a protective order; or (b) to establish a Party's rights under this Agreement, including to make court filings.

7.3 Disclosure of Information about End Users. Rave shall not rent, trade or sell information regarding End Users (including, but not limited to,

any Customer Content) to any third party; provided, however, that notwithstanding anything to the contrary contained in this Agreement, (i) Rave may disclose any such information to Third Party Service Providers and Emergency Service Providers in connection with the operation and use of the Services or as necessary to comply with applicable laws and governmental orders and (ii) under no circumstances shall Rave or any Rave Representative be liable for the failure of Customer or any third party (including, but not limited to, any Designated Institution, Third Party Service Provider or Emergency Service Provider) to comply with its own privacy policies and all applicable privacy laws and regulations.

8. INDEMNIFICATION

8.1 Except as otherwise provided below, Rave shall defend or, at its option, settle any claim, suit, or other action brought by a third party against Customer directly and to the extent arising out of an allegation by such third party that any use of or access to a Product by Customer as expressly authorized under this Agreement infringes any U.S. patent issued to such third party (each, a "Claim"), and Rave shall indemnify and hold Customer harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities arising out of any such Claim finally awarded to such third party by a court of competent jurisdiction after all appeals have been exhausted or at the time of a final settlement of such Claim by Rave (collectively, "Losses"), provided that Customer gives Rave (i) prompt written notice of such Claim; (ii) sole authority to control and direct the defense and/or settlement of such Claim; and (iii) such information and assistance as Rave may reasonably request, at Rave's expense, in connection with such defense and/or settlement. Upon the occurrence of any Claim for which indemnity by Rave is or may be due under this Section 8, or in the event that Rave believes that such a Claim is likely, Rave may, at its option (I) modify the relevant Product so that it becomes non-infringing, or substitute functionally equivalent software or services; (II) obtain a license to the applicable third-party intellectual property rights; or (III) terminate this Agreement (or the license to such Product hereunder) on written notice to Customer and provide a prorated refund to Customer for any unused license fees under the then-current License Term. Rave shall not be liable for any costs or expenses incurred by or on behalf of Customer in connection with any Claim for which indemnity by Rave is or may be due under this Section 8 without the prior written consent of an authorized officer of Rave. Rave's indemnity obligations set forth in this Section 8 shall constitute Rave's entire liability and Customer's sole remedy for any actual or alleged intellectual property infringement claim with respect to the Services or Products. Notwithstanding anything herein to the contrary, Rave shall have no obligation or liability for any intellectual property infringement claim and any related losses, costs, expenses, damages and liabilities whatsoever to the extent arising from (a) the combination, operation, or use of the Product with products, services, information, materials, technologies, business methods or processes not furnished by Rave or otherwise expressly contemplated by the Documentation; (b) modifications to the Product, which modifications are not made by Rave or any party expressly authorized by Rave in writing; (c) use of the Product except in accordance with this Agreement, the Documentation and any other applicable user documentation or specifications furnished by Rave in writing; (d) failure of Customer to implement any updates and upgrades provided by Rave that would make the Product non-infringing; and/or (e) any intellectual property provided or otherwise made accessible to Rave by Customer or any of its Affiliates.

8.2 To the extent permitted by applicable law, in connection with any intellectual property infringement claim against Rave and/or any Rave Representative by a third party arising out of any actions or omissions by Customer covered by Section 8.1(a)-(e), Customer shall defend, indemnify, and hold Rave and each Rave Representative harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities to the extent arising out of any such claim against Rave and/or such Rave Representative by a third party (including without limitation any End User or governmental agency), provided that Rave gives Customer (i) prompt written notice of such claim; (ii) sole authority to control and direct the defense and/or settlement of such claim; and (iii) such information and assistance as Customer may reasonably request, at Customer's expense, in connection with such defense and/or settlement; provided that Rave shall have the option to participate in any such matter with counsel of its choice at its expense. Customer shall not be liable for any costs or expenses incurred by or on behalf of Rave in connection with any intellectual property infringement claim for which indemnity by Customer is or may be due under this Section 8 without the prior written consent of any authorized officer of

Customer.

9. MISCELLANEOUS

9.1 Applicable Law/Dispute Resolution. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with, and shall be governed by, the laws of the Commonwealth of Massachusetts without giving effect to its rules regarding conflicts of laws. Regarding any action for injunctive or other equitable relief arising from the breach by the other Party of any license, usage or confidentiality obligations hereunder, each Party irrevocably submits to the jurisdiction of the Federal courts located within the Commonwealth of Massachusetts in connection with any and all causes of action between the Parties arising from or in relation to this Agreement. Except as provided in the preceding sentence, the Parties agree that any disputes regarding this Agreement that cannot be resolved through negotiations between the designated representatives from each Party within thirty (30) days of the date the dispute arose shall be submitted to binding arbitration conducted by the American Arbitration Association ("AAA") at its Boston, Massachusetts location. Any such arbitration will be conducted in accordance with the Commercial Arbitration Rules of the AAA. Any such arbitration will be conducted by a single arbitrator, and the arbitrator will issue his/her award in writing with findings. The decision of the AAA shall be binding as between the Parties, shall not be subject to appeal, and shall be enforceable in any court of competent jurisdiction. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

9.2 Services Outside the US. If Customer is interested in purchasing Services for delivery outside of the United States, Customer acknowledges and agrees that, in addition to any restrictions that may be imposed on Customer by any Third Party Service Provider, any such territory outside the United States may impose its own restrictions resulting from applicable law, telecommunication or internet infrastructure limitations, telecommunication or internet service provider policies, or communication device customizations that inhibit or prevent the delivery of SMS, text or other messaging, or restrict the ability to place or receive certain calls (e.g., outbound toll-free calls). Such restrictions may impede certain aspects of the Services. Rave shall not be responsible for any such impediments or any unavailability of the Services as a result thereof.

9.3 Force Majeure. A Party shall be excused from performance of its obligations under this Agreement if such a failure to perform results from compliance with any requirement of applicable law, acts of god, fire, strike, embargo, terrorist attack, war or any other military action, acts of local, state or national governments or public agencies, insurrection or riot or other causes beyond the reasonable control of that Party.

9.4 Notices. All notices required by or relating to this Agreement shall be in writing and shall be sent by means of certified mail, postage prepaid or by nationally recognized overnight courier service, to the Parties to the Agreement and addressed, if to Customer, as set forth in the Customer Acceptance Form, or if to Rave, as follows:

**Rave Wireless, Inc.
492 Old Connecticut Path, 2nd Floor
Framingham, MA 01701
Attention: Chief Executive Officer**

or addressed to such other address as that Party may have given by written notice in accordance with this provision. All notices required by or relating to this Agreement may also be communicated by facsimile, provided that the sender receives and retains confirmation of successful transmittal to the recipient and sends a duplicate of such notice by the means specified herein. Such notices shall be effective on the date indicated in such confirmation.

9.5 Assignment. Neither Party may assign its rights or delegate its obligations under this Agreement without the other Party's prior written consent, and, absent such consent, any purported assignment or delegation shall be null, void and of no effect; provided, however, that either Party, upon written notification to the other Party, may assign this Agreement in connection with any merger, consolidation, corporate restructuring, sale of any substantial portion of its assets, or any transaction in which more than fifty percent (50%) of its voting securities are transferred, unless any such successor or assignee of Customer is a competitor of Rave, in which case Customer must obtain Rave's prior written consent. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Rave and Customer and their respective permitted successors and assigns.

9.6 Independent Contractors. Customer and Rave acknowledge and agree that the relationship arising from this Agreement does not constitute or create any joint venture, partnership, employment relationship or franchise between them, and the Parties are acting as independent contractors in making and performing this Agreement. Neither Party has the power or authority as agent, employee or in any other capacity to represent, act for, bind or otherwise create or assume any obligation on behalf of the other Party for any purpose whatsoever.

9.7 Amendment/Waiver. No amendment to this Agreement or any addendum shall be valid unless in writing and signed by the authorized representatives of both Parties, provided that Rave may modify it, upon written notice to Customer, in order to comply with legal, regulatory or telecommunications carriers' requirements. No waiver under this Agreement shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of such waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described therein and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. Any delay or forbearance by either Party in exercising any right hereunder shall not be deemed a waiver of that right.

9.8 Severability. If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision shall be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability.

9.9 Export Controls. Customer will not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of any Product to any country for which any export license or approval is required under the laws of the United States or any other country unless the appropriate export license or approval has first been obtained.

9.10 No Third Party Beneficiaries. The Parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Agreement, whether express or implied, shall confer upon any person or entity, other than the Parties and their permitted successors and assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

9.11 U.S. Government Licensees. Each of the components that constitute each Product is a "commercial item" as that term is defined at 48CFR 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 CFR 12.212. Consistent with 48 CFR 12.212 and 48 CFR 227.7202-1 through 227.7202-4, all U.S. Government licensees acquire the Product with only those rights set forth herein.

9.12 Immunity. If applicable and to the extent not prohibited or otherwise authorized by applicable law, each Party will be entitled to not less than the same benefits and protections afforded by any law, regulation or other applicable rule which extends protections to the other Party in any form, including, but not limited to, governmental or other immunity, indemnification or other protection. Neither Party will object to or interfere with the assertion of such immunity by the other Party.

9.13 Headings. The headings in this Agreement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this Agreement.

9.14 Signatures. This Agreement will be deemed to be executed upon the execution by the Parties of any Customer Acceptance Form incorporating this Agreement by reference therein.

9.15 Entire Agreement. This Agreement, together with the SLP and all Customer Acceptance Forms entered into by the Parties, sets forth the entire agreement and understanding between the Parties with respect to the subject matter hereof and, except as specifically provided herein, supersedes all prior oral and written agreements, discussions and understandings between the Parties with respect to the subject matter hereof, and neither of the Parties shall be bound by any terms other than as expressly provided for in this Agreement. In the event a conflict arises between this Agreement and the provisions of any other document comprising part of this Agreement, this Agreement will govern unless the other document expressly provides otherwise.

10. DEFINITIONS

10.1 "Administrators" mean personnel of Customer and Designated Institutions authorized by Customer to access the Products on behalf and for the benefit of Customer and such Designated Institutions, respectively.

10.2 "Affiliate" means, with respect to any entity, any other entity Controlling, Controlled by or under common Control with such entity, whether directly or indirectly through one or more intermediaries.

10.3 "Customer" means the customer specifically identified on the Customer Acceptance Form(s).

10.4 "Confidential Information" means the terms of this Agreement and all documents, material or information relating to the Services and the provision thereof, including, but not limited to, the Documentation, personally identifiable information regarding End Users and all other information that either Party treats as proprietary or confidential.

10.5 "Control" and its derivatives means legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding voting capital stock (or other ownership interest, if not a corporation) of an entity, or actual managerial or operational control over such entity.

10.6 "Designated Institution" means any Affiliate and/or any other institution, organization, entity and person for whose benefit Customer is licensing one or more Products hereunder as specified in the relevant Customer Acceptance Form.

10.7 "Documentation" means Rave's then-current standard product and user guides and/or related documentation generally made available to licensees of Products, as such Documentation may be modified by Rave, in its sole discretion, from time to time.

10.8 "End Users" means individuals associated with Customer and/or any Designated Institution who register with Rave or are otherwise eligible to receive and/or send messages from or otherwise utilize the benefits of the Services and individuals who independently register with Rave to establish a safety profile or are otherwise eligible to receive or utilize the benefit of the Services. During the Term, Customer shall be responsible for notifying Designated Institutions and End Users that they are each subject to Rave's applicable then-current Terms of Use and Privacy Policy in connection with their respective operation and use of the Services (if applicable).

10.9 "Privacy Policy" means Rave's Privacy Policy located at www.ravemobilesafety.com/privacy-policy, as such Privacy Policy may be amended by Rave, in its sole discretion, from time to time.

10.10 "Professional Services" means the separate support offerings for Customer that are not included as part of the Support, but are provided by Rave at an additional cost as specified in the applicable Customer Acceptance Form(s), including, but not limited to, those related to the set-up, integration and training for each Product.

10.11 "Rave Representatives" means Rave and its Affiliates and each of their respective directors, officers, employees, contractors and other representatives.

10.12 "Support and Service Level Policy" or "SLP" means the Support and Service Level Policy for the Products set forth in Appendix 1 hereto.

10.13 "Terms of Use" means Rave's separate Terms of Use for Designated Institutions and for End Users, as such Terms of Use may be amended by Rave, in its sole discretion, from time to time.

10.14 "Third Party Service Provider" means a telecommunications, internet, voice broadcasting, voice messaging or other service provider providing mobile telephone, internet or other intermediary services to subscribers that allow or relate to the operation or use of the Services by End Users or a licensor or other third party from whom Rave has received sublicensing rights in connection with the operation or use of the Products, as the case may be.

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APPENDIX 1
(TO MASTER LICENSE AND SERVICES AGREEMENT)
SUPPORT AND SERVICE LEVEL POLICY (“SLP”)

Purpose

This SLP sets forth Rave’s undertakings with respect to providing customer support to the Customer and the service levels associated with the Services provided to Customer during the Term of the Agreement.

1. Service Reliability. Rave shall provide an uptime of 99.999% for the Services, subject to scheduled updates and scheduled maintenance and to any downtime caused by the Customer or by Third Party Service Providers. For unplanned downtime (an “Event”), Rave will assign a trouble severity code based on Rave’s assessment of the Event at the point of trouble identification. Rave will make adjustments to the trouble severity code based on how the Event proceeds.

| Trouble Severity Code | Description | Initial Response Time | Status Update Intervals |
|-----------------------|--|---|-------------------------|
| Sev 1 | “ Sev 1 Error ” means a catastrophic Event causing a complete (100%) loss of a key safety related feature of the Services | 20 min. | 30 min. |
| Sev 2 | “ Sev 2 Error ” means a non-catastrophic Event causing a significant component of the Services to fail or to perform materially different than expected, creating significant inconvenience to the Customer | For Events reported during normal business hours (9am to 5pm EST Monday through Friday), 24 hours from time of report. For Events reported outside of normal business hours, 24 hours from beginning of next business day | 2 hour |
| Sev 3 | “ Sev 3 Error ” means an Event that: (a) has minimal current impact on the Customer, and (b) causes a malfunction of a non-essential Product feature. | For Events reported during normal business hours, 24 hours from time of report. For Events reported outside of normal business hours, 24 hours from beginning of next business day | As appropriate |

2. Points of Contact and Escalations. If Customer experiences an Event, Customer may contact Rave’s customer support hotline at 888-605-7163 available 24X7X365 or by e-mail at techsupport@ravewireless.com.

- Non-Sev 1 Events are submitted via email at techsupport@ravewireless.com.
- For Sev 1 Events, Rave will provide continual support until the Event is resolved.

Customer and Rave will exchange ticket numbers for tracking an Event beginning with the initial report of trouble. Customer may be required to interface with any third party hardware and software vendors, carriers or other service providers.

Customer Contact Information (for escalation or technical issues)

| | Contact Name & Title | Phone | Mobile | Email |
|----------------------------------|----------------------|-------|--------|-------|
| 1 st Point of Contact | | | | |
| 1 st Escalation | | | | |
| 2 nd Escalation | | | | |

3. Carrier and Other Service Provider Related Service Guarantees. Rave does not provide any service levels or support with respect to any carrier or other Third Party Service Provider. Rave's sole responsibility with respect to carriers and other Third Party Service Providers will be to make commercially reasonable efforts to ensure availability of such third party's services.

4. Change Control Management/Update Management.

- A. Product Modifications by Rave: Rave may modify Products from time to time to install bug fixes and required updates (as deemed appropriate by Rave).
- B. Implementation of Updates/Maintenance: Rave will ensure that any planned maintenance and update events within the Products will be executed in a professional manner. Proper execution includes advance notification to Customer by Rave.
- C. Service Interruptions and Advanced Notification Requirements: Rave will provide Customer with at least 72 hours advance notice via e-mail of all planned maintenance activities resulting in any service interruptions or possibility of any service interruption that will have a direct impact on Services.

Rave shall perform emergency maintenance as necessary and will, if possible, give advance notice thereof to Customer. "Emergency" shall mean that Rave has become aware of a problem that, if an immediate remedy is not implemented, will prevent Rave from continuing to support and provide the elements and aspects of the Services. Emergency downtime outside of the maintenance window will be counted as unscheduled downtime in determining whether Rave has achieved its service uptime goal.

5. Availability.

Rave will have no liability for unavailability of any Services caused, in whole or in part, by Customer's use of the Services other than in accordance with the terms and conditions of the Agreement or the Documentation, by any Designated Institution's operation or End User's use of the Services other than in accordance with Rave's applicable then-current Terms of Use, or for any causes beyond the reasonable control of Rave or that are not reasonably foreseeable to Rave, including but not limited to, interruption or failure of telecommunication or digital transmission links and Internet slow-downs or failures, the failure or unavailability of any services provided by Third Party Service Providers or Emergency Service Providers, or any inaccuracy or insufficiency in any information regarding End Users.

6. Service Credits.

Credits for Failure to Achieve Service Level Standards: If Rave experiences any Severity 1 Downtime during a particular month, Customer shall also be eligible to receive a credit equal to the pro-rated dollar value of three (3) times the actual number of minutes during such month related to the service level failure. "Downtime" means the total number of minutes during such month that the Service was unavailable at a Sev 1 Severity Code during that month.

7. Credit Requests and Payment.

To request a credit, Customer must send an email to Rave at finance@ravemobilesafety.com within ten (10) days of the end of the calendar month in which the failure occurred. Customer must include the Customer Name, Contact Name and email address, and dates and times of unavailability. If Rave confirms that you are owed Service Credits, we will issue a credit to your account within ten (10) business days. Credits may only be used against future billing charges.

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APPENDIX 2
APPLICABLE TO THE RAVE AWARE PRODUCT ONLY
FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICES SECURITY ADDENDUM
("SECURITY ADDENDUM")

This Security Addendum may be amended from time to time by Federal Bureau of Investigations ("Additional Amendments"). Rave and Customer agree to be bound to any Additional Amendments. The intent of the Security Addendum is to ensure that Customer complies with the requirements in connection with its access to the Data Consortium and Rave to comply with in connection with its access to Customer Content. For purposes of this Security Addendum, Rave and Customer are referred to as a "Contractor".

The goal of this document is to augment the CJIS Security Policy to ensure adequate security is provided for criminal justice systems while (1) under the control or management of a private entity or (2) connectivity to FBI CJIS Systems has been provided to a private entity (contractor). Adequate security is defined in Office of Management and Budget Circular A130 as "security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information."

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security, and data security, and technical security. The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

1.01 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum.

1.02 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.

2.00 Responsibilities of the Contracting Government Agency.

2.01 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and the CJIS Security Policy and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes. The acknowledgement may be signed by hand or via digital signature (see glossary for definition of digital signature).

3.00 Responsibilities of the Contractor.

3.01 The Contractor will maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed and all subsequent versions), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

4.00 Security Violations. - 7 - 06/01/2020 CJISD-ITS-DOC-08140-5.9 H-7 **4.01** The CGA must report security violations to the CJIS Systems Officer (CSO) and the Director, FBI, along with indications of actions taken by the CGA and Contractor.

4.02 Security violations can justify termination of the appended agreement.

4.03 Upon notification, the FBI reserves the right to:

- a. Investigate or decline to investigate any report of unauthorized use;
- b. Suspend or terminate access and services, including telecommunications links. The FBI will provide the CSO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CGA and Contractor. Upon termination, the Contractor's records containing CHRI must be deleted or returned to the CGA.

5.00 Audit

5.01 The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

6.00 Scope and Authority

6.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CSA, and FBI.

6.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20.

The parties are also subject to applicable federal and state laws and regulations.

6.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they augment the provisions of the CJIS Security Policy to provide a minimum basis for the security of the system and contained information and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.

6.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.

6.05 All notices and correspondence shall be forwarded by First Class mail to:

Information Security Officer
Criminal Justice Information Services Division, FBI
1000 Custer Hollow Road
Clarksburg, West Virginia 26306- 8 -

Each party hereby certifies that that it is familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agrees to be bound by their provisions.

LOWNDES COUNTY BOARD OF COMMISSIONERS
COMMISSION AGENDA ITEM

SUBJECT: Crisis Track Damage Assessment Software

DATE OF MEETING: May 28, 2024

BUDGET IMPACT: \$6,237.00

FUNDING SOURCE:

- Annual - \$6,237.00
- Capital
- N/A
- SPLOST
- TSPLOST

Work
Session/Regular
Session

COUNTY ACTION REQUESTED ON: Approval of Service Agreement for Crisis Track

HISTORY, FACTS AND ISSUES: Hurricane Idalia highlighted a need for a more efficient method to conduct post-storm damage assessments, utilizing Federal Emergency Management Agency (FEMA) guidelines. Crisis Track is a damage assessment software that can be installed as an app on any smartphone or tablet for users in the field to quickly collect damage assessment information and provide it to the Emergency Operations Center (EOC). This will allow Emergency Management to provide damage assessment numbers more quickly to the Georgia Emergency Management Agency (GEMA), enabling them to notify FEMA of a request for assistance more quickly. Another advantage is that it collects all the information needed for the damage assessment and the labor and equipment costs for conducting the assessment and places it on the appropriate FEMA forms. This will make submitting those costs for reimbursement easier, if it becomes available. Cook County EMA has been using Crisis Track for several years and indicated it has improved their processes during emergencies and in some routine operations. Berrien County EMA is in the process of implementing Crisis Track as well. Lowndes County EMA reached out to several other counties that use Crisis Track or a similar product, and all spoke affirmatively about how much it improved their recovery process following an incident.

This was originally intended to be part of the FY 2025 budget request. However, GEMA recently made some additional grant funds available that will cover the initial implementation funding and allow us to have the system in place with personnel trained ahead of the peak hurricane season.

- OPTIONS: 1. Approve and authorize the Chairman to sign the Service Agreement for Crisis Track.
2. Board's Pleasure

RECOMMENDED ACTION: Approve

DEPARTMENT: Emergency Management

DEPARTMENT HEAD: Ashley Tye

ADMINISTRATIVE COMMENTS AND RECOMMENDATIONS: